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SUPREME COURT OF THE UNITED STATES.

Dismissed

No. ~~1055~~. ~~200~~ ~~197~~ 150

W. H. CHATFIELD, WM. WOODS, THE POWERS PAPER COMPANY, ET AL., APPELLANTS,

vs.

W. F. BOYLE, JEFFERSON DAVIS, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE.

FILED JANUARY 2, 1879.

C. J.

SUPREME COURT OF THE UNITED STATES.

No. 1055.

W. H. CHATFIELD, WM. WOODS, THE POWERS PAPER COMPANY, ET AL., APPELLANTS,

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1 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States, within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D. 1877, at the United States court-house, in the city of Memphis, in said district, on, to wit, the day of , A. D. 187 , in the following cause, to wit:

W. H. CHATFIELD ET AL., PLAINTIFF,
vs.
W. F. BOYLE ET ALS., DEFENDANT. } No. 284. Equity.

2 Chancery court of Shelby County.

STATE OF TENNESSEE,
Shelby County, ss:

Pleas before the honorable R. J. Morgan, chancellor of the chancery court of Shelby County, held in the city of Memphis, and State and county aforesaid, and at the April term thereof, 1877.

Be it remembered that heretofore, to wit, January 13, '77, Wm. H. Chatfield et al. filed their bill of complaint against W. F. Boyle et al., in the court *court*, in the words and figures following, viz:

In the chancery court of Shelby County, Tennessee.

W. H. CHATFIELD, WILLIAM WOODS, AND John S. Woods, composing the mercantile firm of Chatfield and Woods, all residing and doing business in the State of Ohio, complainants, for themselves and other creditors of Boyle and Co., and J. A. Omberg, a resi-
3 dent of Shelby County, Tennessee, as assignee of Boyle and Co.,
vs.
WM. F. BOYLE, LATE DOING BUSINESS UNDER the name and firm of Boyle and Co., J. A. Hays, jr., J. T. Pettit, and John C. Cooper, all residents of Shelby County, Tennessee, and Jefferson Davis, a non-resident of this State, and a resident of Warren County, in the State of Mississippi, defendants.

To the honorable R. J. Morgan, chancellor of the said chancery court:

The complainants, W. H. Chatfield, Wm. Woods, and John S. Woods, who compose the mercantile firm of Chatfield and Woods, doing business in the city of Cincinnati, Ohio, respectfully state and show to the court that the defendant Wm. F. Boyle, lately doing business under the firm name of Boyle and Co., is justly indebted to these complainants in the sum of two thousand seven hundred ninety-seven and $\frac{79}{100}$ dollars, (2,797.79), all of which has accrued for goods, wares, and merchandise,

sold and delivered by complainants to the defendant Boyle in his
4 present or late firm of Boyle and Co., and to his former firm of Boyle and Chapman, a firm composed of said Boyle and one S. H. Chapman, and which is evidenced as follows, to wit:

Four promissory notes made by Boyle and Co., all dated July 12, 1876, three for $642.58 each, due, respectively, Dec. 2, 1876, Jan. 5, 1877, and February 2, 1877, and one for $642.60, due March 7, 1877, and payable to complainants at the Union and Planters' Bank in Memphis; also the acceptance of Boyle and Co. for $88.56, dated Nov. 9th, 1876, accepted Nov. 11th, 1876, at five days after sight, and payable to complainants, and an account-current for merchandise sold by complainants to Boyle and Co. in October last or prior thereto, amounting $138.89.

Copies of the said notes and acceptance are attached to the bill, and complainant will file the originals thereof in this cause, and also make due proof of said account, but they show that said indebtedness is admitted and not contested by defendant Boyle.

5 The said acceptance of $88.56, and account of $138.89 were for goods sold not on credit, but for cash to be paid at once, and which said should have paid on delivery of the goods.

Complainants show that the whole amount of said four notes, to wit, $2,570.34, is a part of the indebtedness of the former firm of Boyle and Chapman, which firm was conducting business in Memphis prior to March, 1876, when said Chapman retired from the firm, and Boyle and Co. succeeded said former firm.

Said indebtedness accrued for merchandise sold said former firm in 1875, and prior thereto, and was formerly evidenced by the notes of said Boyle and Chapman for a large amount. Part of said notes were paid, and at the request of said Boyle, the remainder was renewed by the notes of Boyle and Co. as above stated, said Chapman having retired from the firm and ceasing to do business.

6 Complainants are advised that by reason of the facts heretofore and herein below set out in the bill, it is unnecessary to make said Chapman a party hereto.

Complainant further shows that on July 1st, 1874, defendant Jefferson Davis became interested in the firm and business of Boyle and Chapman then being conducted in Memphis, under the following circumstances and to the following extent, viz, he furnished to said firm twenty-five thousand dollars to be used by them in their mercantile business, and which was actually so used, and while the name of said Davis did not appear as a partner or a member of the firm, yet the agreement was that said Davis was to have as compensation for the use of the money so loaned a sum equal to one-third the net profits of the business, which agreement complainants show and submit made said Davis a partner in the business. Said agreement continued in force and effect
7 between the parties during all the time that the firms of Boyle and Chapman and Boyle and Co. continued the mercantile business, and complainants show that during the first year of said agreement, viz, from July 1st, 1874, to July 1st, 1875, as stated to them by defendant Boyle, the said Davis drew out of said concern his one-third share of the profits, being a sum largely in excess of the legal interest that would have been due him for the use of his money in case he were a mere creditor and not a partner; but since the last-named date complainants show on the like information of said Boyle that said firm made no profits, and that consequently said Davis drew nothing from said firm, and they show and urge that these facts show said Davis sharing in the profits and losses of both said firms successively so as to make

him in law a partner in both of them for the retirement of said
8 Chapman from said firm was not intended to and did not effect the relation of said Davis to the firm in any wise.

The agreement between said Davis and said Boyle and Chapman was in writing and is now in the possession of either defendant Davis or defendant Boyle, and complainants ask that it may be produced and filed herein.

Complainants show that when said agreement or arrangement was entered into, the said firm of Boyle and Chapman was indebted to these complainants, and they were dilatory in paying their obligations, and their mercantile credit was somewhat impaired, so that these complainants had resolved to extend no further credit to Boyle and Chapman as they had theretofore done, and they so notified Boyle and Chapman. This was not far from the time when said arrangement was entered into; and afterwards said Boyle informed the agent of complainants of
9 the substance of the agreement made with said Davis, and of his sharing in the profits. At first he did not name said Davis, but afterwards informed complainants that it was Jefferson Davis who had furnished the capital as aforesaid, and further informed them that said Davis had also a further sum of $10,000 then invested in the firm which he was at liberty to withdraw at any time, but that the $25,000.00 before mentioned was to remain as part of the capital of the firm and could not be withdrawn without the consent of said Boyle.

Upon the faith and credit of these representations made to complainants in the year 1874, they agreed to give credit to the firm of Boyle and Chapman, to the extent of $10,000, if necessary, as said Boyle said it might be frequently necessary and desirable, and the' did extend credit to said firm, extended and renewed the indebtedness al-
10 ready existing, sold the firm other goods on credit, so that said firm was indebted to complainants at times as high as $6,000, or thereabouts; all which complainants would have declined to do, but for the assurances they so received as to said Davis' interests and investments in said firm and his share in the profits thereof.

Said firm at times made payments to complainants, and the amount due them has varied and in the whole has been largely reduced, but the amount of the four notes above named, viz, $2,570.34, is a part of the indebtedness existing against the old firm of Boyle and Chapman under said arrangement and prior to March, 1876.

Complainants are informed and believe that at the time of making the aforesaid arrangements with said Davis, and said assurances to complainants, said Boyle was the financial agent and factor of said Davis, in Memphis, the latter being a non-resident, and they urge that said assurances bound said Davis as his agent.

11 Complainants further show that they are informed by said Boyle, and believe that the said arrangement with said Davis as to the use of said money continued under the firm of Boyle and Co., and down to the time when that firm ceased to do business, and made an assignment, during which time the other indebtedness of Boyle and Co. to complainants by said acceptance and open account occurred.

Complainants have never been informed of any change in said arrangement since they were first informed of the existence thereof. They were expressly informed by said Boyle, by letter, in March last, that said Davis' arrangement and money continued with the new firm of Boyle and Co. as theretofore.

Complainants understood from the first representations made to them by defendant Boyle, that defendant Davis was a partner in the firm of

Boyle and Chapman. It is now pretended by some of the defend-
12 ants that defendant Davis was not such partner, but complainants never heard any such pretense presented until after the execution of the mortgage or trust deed hereinafter mentioned. Their only knowledge theretofore as to the connection of defendant Davis with said firm was derived from defendant Boyle, who communicated it to them as a secret and as to the basis on which they were expected to extend credit to the firm as aforesaid, and requested complainants not to make the same public.

Complainants further show that both of said firms of Boyle and Chapman, and Boyle and Co., were engaged in the book, stationery, printing, and book-binding business, and had in use in their said business a large and valuable quantity of machinery, tools, &c., for use in the printing and binding business, which had originally cost $35,000, and though considerably used was still the most valuable and the
13 largest part in value of their entire estate.

And after the retirement of said Chapman from the firm defendant Boyle, under the name and firm of Boyle and Co., at the instance of defendant Davis, executed on or about March 8th, 1876, an instrument in the nature of a trust deed, whereby he purported to convey to defendant J. A. Jays, jr., as trustee for the benefit of defendant Davis, solely and as if said Davis were a creditor merely of said Boyle and Co., a large part of the machinery, &c., used in said business, and other property thereof, described as "all the machinery, tools, fixtures, cases, types, presses, recently owned by the firm of Boyle and Chapman and now the property of the first party, and used then as now at 279½ Main St., Memphis, Tenn., in the business of printers, stationers, and bookbinders, and also the boiler and steam-engine located at the same place, and the fixtures, counters, show-cases, and iron safe in the store-
14 house in No. 279½ as aforesaid, such conveyance being ostensibly to secure to said Davis the payment of said $25,000, for which payment time was therein allowed until March 1st, 1877, and said trustee was allowed to advertise a sale of the property on the last named day, if the debt was not then paid, but not sooner.

Said instrument was acknowledged, was by said Boyle, on March 10th, 1876, as complainants have since learned, filed for record. The same appears recorded in book No. 10, of chattel mortgages in Shelby County, at page 87, and copy thereof will be produced and filed herein, if necessary, but complainants ask that defendants may produce and file the original.

Complainants charge and show to the court that the asking and granting of such a conveyance and the execution and recording thereof, however intended by the parties, is calculated to operate as a
15 great wrong, injustice, and fraud toward these complainants because intended to withdraw from the complainants as creditors of the concern, who gave their credit upon the faith of its visible assets and property, a large part thereof in aid and to the benefit of a party who has held out to complainants as a partner in the firm.

They complain of the said Davis and Hayes' trust-deed or mortgage, and they respectfully show to the court, and urge upon its attention, that if they are mistaken in their claim, to look to said Davis as a partner and to recover their debt from him individually, they are certainly in that event entitled to look to and rely upon the property described in said instrument as they therefore had done as the firm property of their debtors, and bound to them for the payment of their debt. They insist and urge that under the circumstances, representations, and assur-

16 ances set out herein, the claim of defendant Davis, if it be a debt at all against the firm of Boyle and Co., is one not entitled in law to any preference of payment out of the assets of said firm, in priority to these complainants. even though defendants Boyle and Davis have so agreed, and that their attempted agreement will be set aside as in law a fraud and an attempted wrong upon complainants.

Complainants further show that defendant Boyle and his partner Chapman had made, on June 30th, 1873, a conveyance in trust to defendant John C. Cooper, as trustee, of a quantity of the same machinery, tools, &c., before mentioned, the same described as one boiler and engine, machinery and belting of every kind, types, presses, and other non-consumable property used in and connected with the printing-office and bindery now contained in said building No. 279½ Main st., also the counters, shelves, and other fixtures used in said store No. 279½ Main street.

17 This conveyance purports to secure $2,000 to defendant J. T. Pettit, to be paid some time thereafter. The same is recorded in book 6 of Chattel morgages of Shelby County, at page 36. Complainants ask that defendants may file the original herein, but will file a copy herein if necessary.

Complainants know nothing about the said trust deed or the transactions leading thereto, or their bona-fides, but they show that the debt was long since due, and they think it probable that a portion of it has been paid, and they ask that the same be fully examined and an account thereof taken.

Complainants show that lately said John C. Cooper, as trustee, has advertised a sale of the property named in said last named conveyance to be made on January 15, 1877, and that defendant J. A. Hayes, jr., as trustee, has advertised a sale of the property named in said first

18 named conveyance (which is all the same as that named in the other except the show-cases and iron safe), to be made on the same day and at the same place. The time allowed to Boyle and Co. by the last named deed to pay the said claim has not yet expired, payment having been thereby extended to March 1, 1877, yet no mention of this fact is made in said Hayes' advertisement of sale.

Complainants are advised that an attempted sale by said Hayes prior to March 1, 1877, would be and the same is oppressive and fraudulent, and an act that will be prevented and enjoined by the order of this court. They show and charge that the defendants, Hayes and Cooper, have advertised their two sales of the property on the same day, or their joint sale as the case may be, by collusion between themselves and defendants Davis and Pettit, in order as complainants believe that there-

by said Davis may have a sale of the property for his benefit (un-

19 authorized and really unjust though it may be), under cover of the more fair and possibly just sale to be made under the Cooper trust deed.

Again, complainants show and urge that as to all the property named in said trust deeds except the show cases and iron safe, the said Hayes trust deed is void in law and equity, because under the prior deed the title to said identical property was in said Cooper, as trustee, and said Boyle and Co. had then no title to convey to said Hayes, and complainants would be and are entitled as creditors to all the surplus of the valuable machinery and property conveyed in the Cooper deed, after the debt to Pettit was satisfied by the sale of a part thereof; and while it is true that but one sale should be made of said property, if it is to be sold at all, yet complainants insist that the sale now advertised should not be allowed to proceed, nor should any sale be allowed to the parties

while they are acting as now so plainly in collusion and that no
20 sale should be allowed until the validity of the Hayes trust deed be investigated, both as to right of defendant Davis to have any such conveyance, and as to the power of defendant Boole to make such conveyance without the legal title to the property.

Complainants further show that if they are mistaken in asking for any of the relief hereinbefore suggested, they are entitled to relief as follows:

If the defendants Davis and Pettit are in law and equity entitled to priority of satisfaction out of the machinery, tools, &c., specified in their said conveyances, the remaining assets of defendants Boyle and Co. will prove largely insufficient to pay their debts, and complainants will be unable to get satisfaction of their debts out of the property assigned as hereinafter set out. Complainants show on information and belief that the amount of socalled profits drawn by defendant Davis out of
21 said firm during the year from July 1st, 1874, to July 1st, 1875, was about the sum of $6,000, a sum very largely in excess of the legal interest on his advances of $25,000, and should it be held by the court here that defendant Davis was not a partner in said firm under his said agreement, but was merely a creditor, then it results that said Davis has received from said firm the said excess over legal interest, whatever it may be, as usurious interest on his said advances, and complainants are advised that they may, and they do claim to recover in this action from defendant Davis in their right as creditors of Boyle and Chapman all the usurious interest so received by said Davis as allowed by the laws of Tennessee.

Complainants cannot, as they are advised, sue at law therefor; the amount is unknown to them and is unascertained. To ascertain it require' an examination of the books of said firm, and an account, and they claim the assistance of a court of equity in this matter, to which
22 they are advised they are entitled, to the end that the truth may be ascertained, and the amount so drawn out by defendant Davis may be shown and an account may be taken thereof.

Complainants charge, however, that said defendant drew out his share of the profits from time to time as profits were made; that it was to him a source of continuous income upon which he drew for the support of his family, making the store of Boyle and Chapman during said period his headquarters when in the city of Memphis, and receiving there his mails, and otherwise treating his interest in said business as that of a partner. The item of $10,000 advanced by said Davis as hereinbefore set out, complainants are informed by defendant Boyle, and believe, has long since been paid to said Davis in full.

Complainants further show that on or about Nov. 14, 1876, defendant Boyle as Boyle and Co. made a general assignment to complain-
23 ant J. A. Omberg for the benefit of all his creditors, without any limitations or preference, of all the property of said Boyle and Co. of every kind at 297½ Main street, and in and about and pertaining to the said business, including all notes and accounts and assets of every kind. Said instrument was duly acknowledged and filed for record the same day and is recorded in chattel-mortgage book No. 11, in Shelby Co., at page 86, and the same or a duly-certified copy thereof will be filed in this cause on or before the hearing. Said Omberg has accepted *accepted* the said trust-deed and is proceeding duly in the execution thereof, with the assent of the creditors of Boyle and Co., and is in possession of all the property of said firm, including that covered by the two deeds in trust above named. Complainants Chatfield and Woods accept and

claim the benefits of said assignment, and they show to the
24 court that under the facts and circumstances set out in this bill the said machinery and other property named in said deeds in trust, or at least some interest therein as a matter of law, enured to the benefit of the general creditors of Boyle and Co., or some of them, and certainly to the benefit of these complainants as creditors, and passed under the assignment to said Omberg.

Complainants are further advised that this benefit of said assignment accrued to all the creditors of Boyle and Chapman, or Boyle and Co., who are by the facts of the case brought within its benefits under the rules of law suggested in this bill as applying to the case of these complainants.

Complainants Chatfield and Woods, as creditors, therefore bring this bill in aid of the said assignment, and in behalf of all the creditors of said firm who may be entitled to come in and join herein, and they have applied to complainant Omberg, as the representative of all the
25 creditors and the person vested with title to the property under the assignment, to join them as a complainant herein.

Complainant J. A. Omberg, as the assignee in said deed of assignment, comes at the request of creditors as aforesaid, and claims the benefit of all the matters and circumstances in this bill set up in behalf of all the creditors of Boyle and Co., and especially in behalf of all those creditors who may hereafter be made parties hereto, and may by proper averments and proof make good their claim to be paid out of the proceeds of the property hereby proceeded against, and asks for them and each of them all the relief under and by virtue and in aid of said assignment, to which they or either or each of them may as creditors be entitled as against defendant Davis or other defendants.

The complainants who bring this bill state and show to the court that they are not at present advised as to what other creditors, if
26 any, are entitled to make the same claims as are here set up or do in fact make such claims; hence they do not make such creditors parties hereto, but bring the bill so as to cover and admit their claims when duly presented and proved.

Complainant Omberg further states and shows that when defendants Hayes and Cooper advertised their said sale for January 15th inst., they applied to him to join them as assignee, which he consented to do, not knowing at the time that any of the general creditors objected thereto, and not knowing all the facts as set out in said bill. But on learning of the objections made by complainants Chatfield and Woods thereto, and being informed that other creditors made like or similar objections, and being merely the representative of creditors generally as to this matter,
27 he is advised that it is his duty to withdraw his assent to such sale, and he has accordingly done so, and has so notified the defendants Hayes and Cooper.

He further shows to the court that he has no interest in this matter except to discharge his duty as assignee under said assignment, and while he is ready as heretofore to proceed in the execution thereof as to all property not in dispute, and to await the orders of this court as to the property, assets, and claims in this bill, specially referred to, he is also ready, if to the court it seems best, on the application of creditors or otherwise, to surrender all his trust into the charge and control of the court, and let all the property of Boyle and Co., whether disputed or not as between their creditors, be administered by the court, by the hand of complainant, or any other such agency as it may determine and appoint.

Complainants further show that the said firm of Boyle and Co.
28 is insolvent; that the assets of said firm not covered by said two trust deeds will be largely insufficient to pay the debts of the firm, even exclusive of the Davis and Pettit claims, and that neither said Boyle nor said Chapman have any other or individual property, both of them being utterly insolvent.

The premises considered, complainants pray that the parties named as defendants in the caption be made such by proper process of subpœna, returnable to the first Monday in February next, same being a rule day, that they answer &c., but not under oath, the same being waived. That a preliminary injunction be granted, this being the first application therefor by complainants in the premises, restraining defendant Hayes, as trustee, and defendant Jefferson Davis, as beneficiary, and their agents, attorneys, &c., from further proceeding with the sale
29 under their trust deed filed for record April 24th, 1876, of the machinery, tools, fixtures, cases, types, presses, boiler and steam engine, counters, show-cases and iron safe, or any other property named in said deed, lately the property of Boyle and Co., at 279½ Main st., Memphis, or elsewhere, as advertised by said Hayes to be made on January 15th, 1877, and also restraining defendant John C. Cooper, as trustee, and defendant J. T. Pettit, as beneficiary, and their agents, attorneys, &c., from further proceeding with the sale as advertised by said Cooper to be made on said Jan. 15, 1877, and the trust deed filed for record June 30th, 1873, of the one boiler and engine, machinery and belting of every kind, types, cases, printing presses, and other non-consumable property, counters, shelves and other fixtures, or any other property named in said deed, and formerly the property of Boyle
30 and Chapman, at 297½ Main st., or elsewhere, and restraining all said parties from further proceeding with any sales or other proceedings under their said trust deeds or against any of said property until the further orders of the court herein, which injunction it is prayed on final hearing be made perpetual; that all due proceedings be had, proofs and accounts taken and orders made as to the case may appertain; that the court will take and impound all the property named in said trust deeds, and in due time order sale thereof to be made by the complainant Omberg, as assignee, or by such officer or agent as this court may appoint, which sale may be free from all claims of any of the defendants of any kind, so as to make such sale fully advantageous to creditors, and leaving the defendants to set up their claims in court here before your honor.

31 That, if necessary, at any stage of the case, a receiver be appointed, and any or all of the property named in any of said instruments, and his duties and powers be defined by the court; that the court will, by its decree, in due time determine that as to complainants Chatfield and Woods, the defendant Davis was a partner in the several firms of Boyle and Chapman and Boyle and Co., and liable to them for the payment of their debt aforesaid, and also liable in like manner to any other creditors of said firms who may in this cause make out as creditors a case entitling them to such relief, and that the court will further decree that whether defendant Davis be so liable as a partner or not, all of the machinery and other property described in the said trust-deed to defendant Hayes is subject as the firm property to the
32 payment of the debts of complainants Chatfield and Woods, and all other creditors of said firms who may be entitled thereto, as above suggested; and that for the reasons set out in this bill, the claim of defendant Davis be postponed to that of complainants Chatfield and

Woods and those of other creditors, and that accordingly the said trust-deed to defendant Hayes be, for said reasons, set aside and annulled, so far as concerns the claims and demands of complainants Chatfield and Woods and other creditors, as aforesaid.

That an account be taken of the amount due to defendant Pettit, under his trust-deed aforesaid, and the extent to which it is a prior lien, if it be such; that an account be taken of the amount of profits or of other compensation drawn by defendant Davis out of the firms of Boyle and Chapman and Boyle and Co. for each year from and after July 1, 1874,
when said agreement was made, and of the excess thereof for
33 such year on the sum advanced by him, so that if your honor shall determine that complainants are not entitled to look to defendant Davis as a partner, or hold him liable in any manner as such, but that he was a mere creditor of said firms, then that he may be allowed only the compensation of legal interest on his money to which as creditor he may be entitled, and that the excess thereof that he has received may be recovered from him by complainants Chatfield and Woods as creditor and other creditors, or by the assignee for their benefit, under the laws of this State; and to secure the said recovery of usury, if necessary, writs of attachment issue herein against the property of defendant Davis as a non-resident, such writs not having been before applied for in the premises, that the validity of the said trust-deed to Hayes may, in all respects, be examined into and passed upon, and that
all and every proceeding be had which is necessary to a proper
34 settlement of the claims of creditors herein; the court taking such charge as it seems proper of the whole assigned estate under the assignment before mentioned, and that all such other and further relief be granted to complainants as to the nature of the case may in justice and equity appertain.

PIERCE AND DIX,
Sol's for Compl'ts.

STATE OF TENNESSEE,
County of Shelby; ss:

Sabin Robbins, agent of the above-named complainants, Chatfield and Woods, who are non-residents of and absent from the State, being duly sworn, says that the matters and things in the foregoing bill stated are true to the best of his knowledge, information, and belief.

SABIN ROBBINS.

Sworn to and sub. before me January 13th, 1877.

A. J. BLACK,
D. C. and M.

35 Upon complainants giving bond and security in the sum of one thousand dollars, the C. and M. will issue writs of injunction as prayed for in bill.

January 13th, 1877.

R. J. MORGAN, *Chan.*

Copies of notes.

$642.58.] MEMPHIS, TENN., *July 12th*, 1876.

On the 2d day of Dec., 1876, after date, we promise to pay to the order of Chatfield and Woods six hundred forty-two $\frac{58}{100}$ dollars at Union and Planters' Bank, value rec'd.

BOYLE AND CO.

$642.58.] MEMPHIS, TENNESSEE, *July 12th*, 1876.

On the 5th of January, 1877, after date, we promise to pay to the order of Chatfield and Woods six hundred forty-two and $\frac{58}{100}$ dollars at Union and Planters' Bank, value rec'd.

BOYLE AND COMPANY.

$642.58.] MEMPHIS, TENNESSEE, *July 12th*, 1876.

On the 2d February, 1877, after date, we promise to pay to the order of Chatfield and Woods six hundred forty-two and $\frac{58}{100}$ dollars at Union and Planters' Bank, value received.

BOYLE AND COMPANY.

36 $642.60.] MEMPHIS, TENN., *July 12th*, 1876.

On the 7th March, 1877, after date, we promise to pay to the order of Chatfield and Woods six hundred forty-two and $\frac{60}{100}$ dollars at the Union and Planters' Bank, value received.

BOYLE AND COMPANY.

Copy of acceptance.

$88.56.] CINCINNATI, *Nov. 9th*, 1876.

Five day' after sight pay to the order of ourselves eighty-eight and $\frac{56}{100}$ dollars, for value received.

CHATFIELD AND WOODS.

Messrs. BOYLE and Co., *Memphis, Tenn.*

(Endorsed:) Chatfield and Woods. Nov. 9, 1876, accepted. Boyle and Company.

Affidavit in proof of accounts.

STATE OF OHIO,
Hamilton County, ss:

Before me, the undersigned, a notary public within and for said county, personally came J. A. S. Gray, and, being duly sworn according to law, says that he is bookkeeper for Messrs. Chatfield and Woods, Cincinnati, Ohio, and that the accounts in favor of Chatfield
37 and Woods hereto attached, and each item thereof, against Messrs. Boyle and Co., amounting in the aggregate to the sum of $358 $\frac{93}{100}$ dollars, is just and true, and that the said balance of $138 $\frac{89}{100}$ dollars is due and remains unpaid, and there are no credits, payments, or set-offs against the same.

J. A. S. GRAY.

Sworn and sub. to before me, by the said J. A. S. Gray, this 25th day of Nov., A. D. 1876.

DE LAS LLOYD,
Notary Public in and for Hamilton County, Ohio.

Account of Boyle and Company with Chatfield and Woods.

24 reams	18 com'l folio, 3.60	86	40
10 "	16 " " 3.20	32	
24 "	20 Holyoke d'bl letter, 4.60	110	40
9 "	24 " " " 5.52	49	68
1 "	28–42, 75 lb. lint book	12	
1 "	40–48, 200 cotton sample	20	

12	"	24-36, 24 manilla, 2.10	25 20
6	"	" 40 " 3.50	21
		1204, 5, 6, cases & dray	2 25
			358 93
38		By mdse. ret	220 04
			$130 89

Statement of accounts.

CINCINNATI, O., Nov. 25, 1876.

Boyle and Co. in a/c with Chatfield and Woods.

188	lbs.	com'l paper, 20	37 60
15	reams	18 lb. folio com'l, 3.60	46 80
3		16 " " 3.20	9 60
19		20 double letter, Holyoke, 4.60	87 40
7		24 " " " 5.52	38 64
			$220 04

Cost bond.

We, W. H. Chatfield et al., and surety, Bun F. Price, acknowledge ourselves indebted to Wm. F. Boyle et al. in the sum of two hundred and fifty dollars, to be void if the said W. H. Chatfield et al., compl'ts in a bill which has this day been filed in the chancery court of Shelby County, against the said Wm. F. Boyle et al., shall pay all such costs as may be awarded against them by the court in its decrees and orders in said cause. This Jan. 13th 1877.

CHATFIELD AND WOODS,
By PIERCE AND DIX, *Att'ys.*
BUN F. PRICE.

39 *Injunction bond.*

We, W. H. Chatfield et al., and surety, Bun F. Price, acknowledge ourselves indebted to W. F. Boyle et al. in the sum of one thousand (1,000) dollars.

The condition of the above bond is such, that whereas the said W. H. Chatfield et al., complainants, have this day filed their bill in the chancery court of Shelby County, Tennessee, against the said W. F. Boyle et al., defendants, and obtained an order for the issuance of the writ of injunction in accordance with said order upon the execution of this bond. Now if the said complainants shall comply with and perform the orders and decrees of the court in case said injunction is dissolved, and shall pay to said defendants such damages as shall be awarded to or recovered by them for the wrongful suing out of the injunction, and also such costs as may be awarded to them by the court, then this obligation to be void.

40 Witness our hands and seals this 13th day of January, 1877.

CHATFIELD AND WOODS. [SEAL.]
By PIERCE AND DIX, *Att'ys.* [SEAL.]
BUN F. PRICE. [SEAL.]

Injunction.—Issued 13th day of Jan., 1877.

W. H. CHATFIELD ET AL.
vs.
W. F. BOYLE & AL.

STATE OF TENNESSEE:

To J. A. Hayes, jr., J. T. Pettit, John C. Cooper, and Jefferson Davis, agents and attorneys, greeting:

Whereas W. H. Chatfield and Woods et al. hath lately exhibited their bill of complaint in the chancery court of Shelby County against you, the said J. A. Hays, jr., et al., as defendants therein, and obtained from the honorable R. J. Morgan, judge, &c., an order that writ of injunction do issue according to the prayer of said bill; we therefore, in consideration of the premises, do strictly enjoin and command you, the said J. A. Hays, jr., J. T. Pettit, John C. Cooper, and Jefferson
41 Davis, and all and every the persons mentioned, and each and every of you, that you and every of you do absolutely desist and refrain from, you the said Hays and Davis, further proceeding with the sale under a certain trust-deed filed for record April 24, 1876, of the machinery, tools, fixtures, cases, types, presses, boiler and steam-engine, counters, show-cases, and iron safe, or any other property named in said deed, lately the property of Boyle and Co., at No. 279½ Main st., Memphis, or elsewhere, as advertised by you to be made on January 15, 1877, and you the said John C. Cooper, trustee, and J. T. Pettit, beneficiary, from further proceeding with the sale as advertised by said Cooper to be made on January 15, 1877, under the trust-deed filed for record January 30, 1873, of the one boiler and engine, machinery and belting of every kind, types, cases, printing-presses, and other non-consum-
42 able property, counters, shelves, and other fixtures, or any other property named in said deed and formerly the property of Boyle and Chapman, at 279½ Main street, or elsewhere, and all you hereinbefore named from further proceeding with any sales or other proceedings under said trust-deeds, or against any of said property, until the further order of our said court to the contrary.

And this you shall in no wise omit under the penalty precribed by law.

Witness Edmund A. Cole, clerk and master of our said court, at office in the city of Memphis, the first Monday in October, 1876.

E. A. COLE, *C. and M.*
By E. B. McHENRY, *D. C. and M.*

(Endorsed:)

Came to hand 15th day of January, 1877. Executed on the within-named parties by reading this injunction to them this Jan. 15th, 1877.

C. L. ANDERSON, *Sh'ff.*
THO'S T. TAYLOR, *D. S.*

43 *Subpœna to answer. Issued 17th day of Jan.*, 1877. *E. A. Cole, C. and M.*

W. H. CHATFIELD & AL.
vs.
W. F. BOYLE ET AL.

The State of Tennessee to the sheriff of Shelby County:

Summon W. F. Boyle, J. A. Hays, jr., J. T. Pettit, John C. Cooper,

and Jefferson Davis, if to be found in your county, to appear before the chancery court of Shelby County, at the court-house in the city of Memphis, Tennessee, on the first Monday in February next, then and there to answer the bill of complaint of W. H. Chatfield et al., a copy of which accompanies this writ. Herein fail not, and have you then and there this writ.

Witness Edmund A. Cole, clerk and master of said court, at office in the city of Memphis, this first Monday in October, 1876.

E. A. COLE, *Clerk and Master.*
By E. B. McHENRY, *D. C. and M.*

(Endorsed:)

Came to hand 17th day of January, 1877. Executed January
44 17th, 1877, by making known contents of this writ to J. T. Pettit.

C. L. ANDERSON, *Sh'ff.*
R. G. PORTLOCK, *D. S.*

Came to hand 17th day of January, 1877. Executed January 17, 1877, by making known contents to W. F. Boyle, J. A. Hays, jr., John C. Cooper, and Jefferson Davis, and delivered copy of bill to J. A. Hays, jr.

C. L. ANDERSON, *Sh'ff,*
By BEN. K. PULLEN, *D. S.*

Decree for sale.—Ent. January 19, 1877.

CHATFIELD AND WOODS
vs.
W. F. BOYLE ET ALS.

The foregoing order is entered nunc pro tunc, as of date January 17, 1877.

By consent of all the parties to this suit, by their solicitors, it is ordered by the court that the injuction heretofore granted herein be modified in this, that the same be dissolved so far as the defendants J. T. Pettit and John C. Cooper, trustee, are concerned, and that all
45 the right, title, and interest of complainant J. A. Omberg, assignee, &c., and defendant W. F. Boyle, Jefferson Davis, and J. A. Hays, jr., trustee, in and to the property described in the two deeds made over by Boyle and Chapman to John C. Cooper, trustee, and one by Boyle & Co. to J. A. Hays, jr., trustee, to wit, one boiler and steam-engine, all machinery and belting of every kind, tools, types, cases, printing presses, and other non-consumable property recently owned by the firm of Boyle and Chapman, and used by them at No. 297½ Main st., Memphis, Tennessee, in or connected with their business as printers, stationers, and bookbinders, also the counters, show-cases, shelves, and other fixtures, and the iron safe in the storehouse at No. 297½ Main st., lately occupied by said firm, be, in order that a sale thereof may be made by order of this court, divested out of them and vested in the defendant John C. Cooper, as trustee under said trust deed, to him and as
46 special commissioner of this court, he being hereby appointed such.

And said trustee and special commissioner is ordered, after giving ten days' notice in one or more newspapers published in the city of Memphis, to sell all of said property at public auction except the counters, show cases, shelves, and other fixtures which he is authorized to sooner sell, at private sale, if a reasonable price can be obtained there-

for. If not sold at private sale, they shall be sold at auction when the other property is sold.

The trustee and special commissioner is authorized to sell said property in gross or to separate parties, as in his judgment will under all the circumstances be most advantageous to all the parties interested. The counters, show cases, shelves, and other fixtures shall be sold for cash, and any article or portion of the other property of not more than fifty dollars value may be sold for cash if in the judgment of the trustee and special commissioner it is advisable.

47 All the other property shall be sold upon the following terms: For such an amount in cash as will with the amount of the proceeds of the goods sold exclusively for cash make the sum of three thousand dollars, the balance to be paid in six and twelve months, for which the purchasers shall execute their notes to draw 10 per cent. interest from date, with security to be approved by the special commissioner and a lien retained upon the property.

Out of the cash received, the trustee and special commissioner, after paying the necessary costs and expenses under said trust deed and the sale herein, will immediately pay to said J. T. Pettit the amount due him, secured by said trust deed, which payment shall divest all lien of said Pettit on the balance of the proceeds, and the balance of the cash be deposited in the German National Bank as a special deposit,

48 where it shall remain subject to the orders of the court. The said notes are to be made payable to John C. Cooper, special commissioner, and by him endorsed without recourse, and placed in the German National Bank, to be there held for collection at maturity subject to the orders of the court. The special commissioner will report his doings herein to this term of court and without delay.

It is ordered that every question as to the rights of all the parties hereto, other than said Pettit and Cooper, shall remain unaffected and unprejudiced by this order.

It is ordered that the clerk and master issue a copy of this order to be served on said John C. Cooper at once.

Decree for sale by assignee.—Ent. Jan. 19, 1877.

CHATFIELD AND WOODS ET AL.
vs.
W. F. BOYLE AND OTHERS.

This cause came on to be heard on this 19th day of January,

49 1877, upon the former proceedings had, and upon the report of the assignee filed herein on the 19th day of January, 1877, in the words and figures following, to wit:

Report of J. A. Omberg, assignee.—Filed Jan. 19, 1877. *E. A. Cole, C. and M.*

CHATFIELD AND WOODS ET AL.
vs.
W. F. BOYLE AND OTHERS.

To the Honl. R. J. Morgan, chancellor of the chancery court of Shelby Co., Tenn.:

James A. Omberg, assignee of Boyle and Co., respectfully shows unto your honor that Messrs. Wildberger and Wills have offered for the stock

of books, stationery, &c., on hand at No. 279½ Main st., Memphis, Tennessee, as it stood on the evening of Wednesday, January 17, 1877, the sum of thirty-two hundred and fifty dollars, of which two thousand dollars are to be paid in cash and the balance in six and twelve months, for which they will issue their joint promissory notes.

50 The assignee has had the advice of several persons familiar with the value of such stocks as that on hand, among the rest the travelling agent of complainants Chatfield and Woods, and acting as well upon their views as upon his own, he recommends that the court permit the sale to be made upon the terms above indicated.

Jan. 18, 1877.

Respectfully,

J. A. OMBERG,
Assignee Boyle and Co. & al.

And said report being seen and not excepted to, but all parties consenting, the same is confirmed, and the assignee is permitted to make the sale therein mentioned upon the terms indicated; and the money arising therefrom he will hold subject to the further order of the court.

Report of John C. Cooper, special commissioner.—Filed January 31, 1877.
E. A. Cole, C. and M.

CHATFIELD AND WOODS
vs.
W. F. BOYLE ET AL.

51 To the hon. chancery court of Shelby County, State of Tennessee:

The undersigned, John C. Cooper, special commissioner and trustee, appointed in the cause of Chatfield and Woods vs. W. F. Boyle et als., now pending, does, in accordance with the decrees of said court, make the following report, viz:

That he has sold, in according in said decree, the following named property, viz: One boiler, one steam-engine and all the machinery & belting, tools, types, cases, printing-presses, and other non-consumable property recently owned by the firm of Boyle and Chapman, and used by them at No. 279½ Main street, Memphis, in or connected with the business of printers, stationers, and book-binders. The above-named property was sold on the 30th day of January, 1877, at public auction, to the highest bidder, and to Jefferson Davis, he, by his agent, being the highest and best bidder, for the sum of twenty-eight hundred and fifty ($2,850.00)

52 dollars. He has sold also the counters, show-cases, shelves, and other fixtures, to different parties, for the aggregate sum of two hundred and thirty-one dollars 50 c., as now fully appears in statement below.

Statement.

Sold to Jefferson Davis in gross steam-boiler, engine, printing-presses, types, &c., and belting and shafting, book-bindery machine and implements, tools, &c	$2,850 00
Sold to E. F. Wills and Co. 6 show-cases and counters (private)	110 00
Sold to A. F. Dodd and Co. 2 counters and shelves, sale private	75 00
" 1 small desk at auction	1 00
" 1 office-desk " "	5 50
" Selden, Ward and Co., 1 iron safe, private	35 00
" Vredenberg, 1 counter, private	5 00
Dollars	3,081 50

CR.

Paid advertising trust sale	$14	
do do appeal	20	
do do comm'r sale	19	
My commissioners	50	
		103 00
		$2,978 50

MEMPHIS, *Jan.* 30, '77.

Making twenty-nine hundred and seventy-eight dollars and fifty cents.

53 All of which is respectfully submitted.

JNO. C. COOPER,
Special Com'r and Trustee.

Report of J. A. Omberg, assignee.—Filed February 5, 1877.—*E. A. Cole, C. and M.*

In chancery court of Shelby County, Tennessee.

CHATFIELD AND WOODS AND OTHERS }
vs.
W. F. BOYLE AND OTHERS. }

The undersigned, James A. Omberg, begs leave to submit to the court the following report of his action in and about the administration of the trusts imposed upon him by a certain deed of assignment executed on the 14th day of November, 1876, by W. F. Boyle, and which was duly recorded in the office of the register of Shelby County, Tennessee, on Nov. 15, 1876, in chattel book No. 11, page 86.

The assignee did not take possession of all the property mentioned in said deed, for the reason that upon all the machinery, counters,
54 shelving, &c., there were prior mortgages; one to secure J. T. Pettit, esq., and the other to secure Hon. Jefferson Davis certain debts claimed to be due them, which mortgages are mentioned in the pleadings in this cause.

The other property assigned was at once taken possession of, and the assignee commenced disposing of the same as rapidly as possible, and for the best interest of all concerned.

Upon taking possession of the property, the assignee found that the late firm had on hand a number of unfinished contracts to furnish blank books, &c., and he determined to complete them, which he did at a handsome profit over the cost of manufacture.

From the 15th day of November, 1876, until 18th day of January, 1877, the assignee continued to sell at retail such articles as could be disposed of in that way to advantage, continuing during that time to occupy the ground floor of the premises lately occupied by Boyle and Co,
55 and on the 18th day of January, 1877, he disposed of the stock then on hand to Messrs. Wildberger and Wills for the price of thirty-two hundred and fifty dollars—two thousand dollars cash, and balance in six and twelve months.

From the time of the assignment until the present time, the undersigned has endeavored to realize on the notes, accounts, &c., due Boyle and Chapman and Boyle and Co., and from these sources has collected the sum of two thousand eight hundred and seventy-one $\frac{74}{100}$ dollars; he is still engaged in the collecting of these assets, and hopes he will be able to realize a considerable sum therefrom, which he will embrace in his future reports.

The amount realized from sale at retail is the sum of forty-one hundred and eighty-three $\frac{19}{100}$ dollars.

The assignee and P. C. Bethell, esq., the owner of the store-house, have a controversy as to the amount to be paid for the use of the
56 premises during the time the assignee was in possession, Mr. Bethell claiming rent at the rate of two hundred and sixty dollars per month, which the undersigned deems excessive, and by advice of his counsel, will resist in the courts.

On January 15, 1877, Messrs. Dod and Co. leased the store-house from Mr. Bethell, and the assignee rented from them until his sale to Messrs. Wiles and Wildberger, and for that time paid them twenty-five dollars.

The assignee has on hand stock invoiced at $387.00, which he will dispose of as soon as possible, and to the best advantage, and embrace the proceeds in a future report.

The amount of liabilities of Boyle and Co., as taken from their books turned over to the assignee, was $44,757.$\frac{70}{100}$, which includes the debt due to J. T. Pettit, esqr., and the assignee is informed that the machinery, &c., sold by order of this court on his account brought something over three thousand dollars.

The assignee has paid out to Messrs. Wilson and Beard, their
57 fee for preparing the assignment, one hundred dollars, and for insurance $32.25, advertising $29.20, and to the sheriff of Shelby County, on account of a judgment of the circuit court of Shelby County in case of Carolina Life Insurance Company vs. M. J. Wicks, W. T. Boyle, and L. H. Chapman, judgment recovered December 21st, 1875, $983.94. Execution tested prior to the assignment, was in the hands of the sheriff, and the assignee paid it in order to prevent a levy and sale under it. He has also paid to Julius A. Taylor, attorney, on account of legal services rendered in and about the matter, the sum of five hundred dollars.

The assignee has retained the sum of $550.00 to answer the demand of P. C. Bethell, for rent, and which sum he holds subject to the orders of the court.

The notes of Wills and Wildberger, two in number, each for $625.00, and due in six and twelve months from January 19, 1877, together with power of attorney to confess judgment in case of non-payment the
58 assignee has on hand, subject to the orders of the court.

Having made the foregoing statement of his conduct in the premises, the assignee submits the following:

RECAPITULATION.

Receipts.

From sales atretail (net)		$4,183 19
From sale to Wildberger and Wills		2,000 00
From collections from open accounts		2,871 74
Total cash receipts		$9,054 93

Disbursements.

Paid sheriff, judgment	$983 44	
Insurance	32 35	
Advertising	29 20	
Rent	25 00	
Commissions to assignee	515 24	
Paid Wilson and Beard	100 00	
" J. A. Taylor	500 00	
		$2,185 73
Receipts over disbursements		$6,869 20
Am't retained on account of unsettled rent to P. C. Bethell		550 00
Balance for disbursement among creditors		$6,319 20

The above balance of $6,319.20 is sufficient to pay to the creditors under the assignment fifteen per cent. on the amount of their demands, which the assignee has declared and is now paying out to them,
59 except upon the claim of Hon. Jefferson Davis, the pro rata upon which he now pays into the hands of the clerk and master under the orders of this court.

The amount of Mr. Davis' claim is the sum of $25,000.00, fifteen per cent. of which is $3,750.00.

All of which is respectfully submitted.

J. A. OMBERG,
Assignee, &c.

MEMPHIS, TENNESSEE, *Jan. 5th*, 1877.

Order for distribution.—Ent. Feb'y 5th, 1877.

CHATFIELD AND WOODS ET AL.
vs.
W. F. BOYLE AND OTHERS.

In this it is ordered that the assignee, James A. Omberg, pay into the hands of the clerk and master the sum of thirty-seven hundred and fifty dollars, that being the pro rata due upon the claim of Jefferson Davis as shown by report of said assignee, filed herein February 5th, 1877; and the pro rata due the other creditors of Boyle and Chapman and Boyle and Company the assignee will proceed to pay out to them or to their attorneys.

60 *Report of advance on bids by special commissioner John C. Cooper.—Filed February 8th*, 1877. *E. A. Cole, C. and M.*

In the chancery court.

W. H. CHATFIELD ET AL.
vs.
W. F. BOYLE ET AL.

To the hon. chancery court of Shelby County:

The undersigned, trustee and special commissioner of the court in the above-entitled case, begs leave to report to the court that he has received from Messrs. Chatfield and Woods an advance on the bid made by Jefferson Davis at the sale made by the undersigned on Jan. 30, '77, for the property named in his report of January 31, 1877, and struck off at said sale to said Davis at the sum of $2,850. The advance bid of said parties is herewith submitted. They offer for said property the sum of ($5,000.00) five thousand dollars, being an advance of $2,150, and they offer the sum of $2,800 in cash, which sum is sufficient
61 for the purpose named in the decree of sale (to wit, to pay the debt of J. T. Pettit and expenses of sale); and they offer to further comply with the terms of sale by giving commissioner their notes, two in number, for $1,100 each, due at 6 & 12 months respectively from date, with interest, and with good and satisfactory personal security.

All which your commissioner now reports to the court for its instruction in the premises.

This Feb. 8th, 1877.

JNO. C. COOPER,
Trustee and Commissioner.

Chancery court.

W. H. CHATFIELD ET AL.
vs.
W. F. BOYLE. } 2496. R.

To John C. Cooper, esq., special commissioner, &c.:

SIR: We, the undersigned, now advance on the bids received by you, for the property, to wit, steam boiler, engine, printing presses, types, &c., and belting and shafting, book-bindery machines and implements, tools, &c., in gross $2,850.00, at the sale made by you on Jan. 30, 1877, of the property of Boyle and Co. under the decree of the court in above-
62 named case, and offer you for the said property the sum of five thousand dollars ($5,000.00), and tender to you herewith the sum of $2,800 in cash, and our notes with personal security, two, for the sum of $1,100 each, due at six and twelve months respectively from date, with interest at 10 per cent.

This January 8th, 1877.

CHATFIELD AND WOODS.

Order opening biddings.—Ent. Feb. 9th, 1877.

W. H. CHATFIELD ET AL.
vs.
WM. F. BOYLE ET AL. } 2496. R. In chancery.

This cause came on to be heard on the motion of complainants to open the biddings in this cause, and it appearing from the report of John C. Cooper, special commissioner, filed January 31st, 1877, that at the sale made by him on January 30, 1877, of certain property formerly belonging to Boyle and Chapman, Jefferson Davis became the
63 purchaser of one boiler, one steam engine, and all the machinery, belting, tools, types, cases, printing presses, shafting, and other implements and materials connected with the binding and printing office of said Boyle and Chapman, he having bid therefor the sum of twenty-eight hundred and fifty dollars ($2,850), and it further appearing from the report of said commissioner filed February 8th, 1877, that Chatfield and Woods have advanced on the aforesaid bid and offer for the same property, upon the same terms as heretofore ordered by the court, the sum of five thousand dollars ($5,000), and it being suggested to the court that other bids may perhaps be offered for said property, it is ordered by the court, and said Cooper, as such special commissioner, is hereby instructed, that the biddings upon the above-named property are now opened, and that they shall remain open until noon on the 17th day of this month, during which period the said commissioner
64 may receive any other and higher bids for said property than the one last made, upon the same terms before ordered, and that he shall at the end of such time report to the court the highest and best bid he may have then received for said property upon the said terms.

Answer of Jefferson Davis.—Filed 16th Feb'y, 1877. E. H. Cole, D. and M.

To the Hon. R. J. Morgan, chancellor of the 12th chancery division of the State of Tennessee, sitting in equity in the chancery court of Shelby County.

The separate answer of Jefferson Davis to the bill exhibited against this respondent and others in this hon. court by W. H. Chatfield and others.

This respondent, saving and reserving the benefit of the usual exceptions

Chancery court.

W. H. CHATFIELD ET AL. vs. W. F. BOYLE. } 2496. R.

To John C. Cooper, esq., special commissioner, &c.:

SIR: We, the undersigned, now advance on the bids received by you, for the property, to wit, steam boiler, engine, printing presses, types, &c., and belting and shafting, book-bindery machines and implements, tools, &c., in gross $2,850.00, at the sale made by you on Jan. 30, 1877, of the property of Boyle and Co. under the decree of the court in above-
62 named case, and offer you for the said property the sum of five thousand dollars ($5,000.00), and tender to you herewith the sum of $2,800 in cash, and our notes with personal security, two, for the sum of $1,100 each, due at six and twelve months respectively from date, with interest at 10 per cent.

This January 8th, 1877.

CHATFIELD AND WOODS.

Order opening biddings.—Ent. Feb. 9th, 1877.

W. H. CHATFIELD ET AL. vs. WM. F. BOYLE ET AL. } 2496. R. In chancery.

This cause came on to be heard on the motion of complainants to open the biddings in this cause, and it appearing from the report of John C. Cooper, special commissioner, filed January 31st, 1877, that at the sale made by him on January 30, 1877, of certain property formerly belonging to Boyle and Chapman, Jefferson Davis became the
63 purchaser of one boiler, one steam engine, and all the machinery, belting, tools, types, cases, printing presses, shafting, and other implements and materials connected with the binding and printing office of said Boyle and Chapman, he having bid therefor the sum of twenty-eight hundred and fifty dollars ($2,850), and it further appearing from the report of said commissioner filed February 8th, 1877, that Chatfield and Woods have advanced on the aforesaid bid and offer for the same property, upon the same terms as heretofore ordered by the court, the sum of five thousand dollars ($5,000), and it being suggested to the court that other bids may perhaps be offered for said property, it is ordered by the court, and said Cooper, as such special commissioner, is hereby instructed, that the biddings upon the above-named property are now opened, and that they shall remain open until noon on the 17th day of this month, during which period the said commissioner
64 may receive any other and higher bids for said property than the one last made, upon the same terms before ordered, and that he shall at the end of such time report to the court the highest and best bid he may have then received for said property upon the said terms.

Answer of Jefferson Davis.—Filed 16th Feb'y, 1877. E. H. Cole, D. and M.

To the Hon. R. J. Morgan, chancellor of the 12th chancery division of the State of Tennessee, sitting in equity in the chancery court of Shelby County.

The separate answer of Jefferson Davis to the bill exhibited against this respondent and others in this hon. court by W. H. Chatfield and others.

This respondent, saving and reserving the benefit of the usual exceptions

tions to said bill, for answer thereto, or to so much and such parts thereof as he is advised it is necessary or material for him to answer,
65 says:

That as to the alleged dealings and transactions between complainants Chatfield and Woods, and the firm of Boyle and Chapman, or Boyle and Co., this respondent knows nothing and can neither admit nor deny any of the allegations of the bill in reference thereto, but so far as he is to be affected thereby requires strict proof. Further answering, respondent states that the agreement between himself and Boyle and Chapman referred to in the bill, or the only agreement made by respondent with reference to the investment of the $25,000 referred to in the bill, was as follows:

Respondent became acquainted with defendant Boyle in his character of secretary of the Carolina Life Insurance Company, of which institution respondent was president, and said Boyle kindly offered
66 to assist respondent in his outside business matters, and especially in the collection, renewal, or management of certain individual claims belonging to respondent.

In the summer of 1874 respondent had some surplus funds, amounting to several thousand dollars, and said Boyle being then engaged in connection with Chapman in the book and stationery business, in Memphis, represented to respondent that the business was entirely safe and remunerative, and suggested that respondent become interested in it as a silent partner to the extent of $25,000. To this respondent replied that he was willing to give Boyle and Chapman the use of that amount of money for a reasonable and fair remuneration, but that it would not suit him at all to become a partner or interested in their business. It was then suggested that if the measure of respondent's compensation could be
67 made to depend upon the degree of success that Boyle and Chapman met with in their business, it would be the most satisfactory basis to them, and respondent, willing to accept this basis of compensation, if he could legally do so, and if it did not connect him with the business of Boyle and Chapman, repaired with said Boyle to confer with a legal friend and adviser, to whom the object of their visit was explained, and whose reply to respondent and Boyle was that the rule of custom adopted by the courts of later years, both in England and America, rejected the arbitrary doctrine that at one time obtained that a participation in the profits of a business ipso facto constituted the recipient a partner as to third persons; and that the rule now generally recognized, and certainly in Tennessee, was to regard partnership as a fact to be determined by the actual intention of the parties, and that it was
68 entirely practicable for the respondent to lend to Boyle and Chapman funds to be employed in their business, the use of the funds to be compensated for by a specific proportion of the profits of the business, without rendering respondent a partner of theirs in fact or in law.

Respondent then, upon the faith of this assurance of his legal adviser, agreed to an arrangement by which he was to lend to said Boyle and Chapman $25,000, for the use of which they were to pay him a sum not out of the net profits of their business. The agreement was not reduced to writing at the time, except in a memorandum thereof, and in a short while thereafter respondent left on a trip to Europe, leaving in the hands of said Boyle and Chapman the said sum of $25,000, upon the terms stated above, and with the express understanding that he was not
69 to be considered as a partner of said Boyle and Chapman, nor in any wise connected with their business affairs

Respondent did not sign his name to the agreement, and does not believe he ever saw it until the commencement of this suit. Respondent saw a rough draft or memorandum of an agreement upon which certain interlineations and suggestions were made by respondent's legal adviser, with whom he consulted as above stated, and this, perhaps, is the only paper that could with any possibility be called the original, tho' this was never signed by respondent, was never in his custody, and he has never seen it from its origin, or since it was revised and altered as above stated by his legal adviser, and has no idea where it now is.

He herewith files, as Exhibit No. 1 to this answer, a paper purporting to be the agreement above referred to, which, however, as he has
70 above stated, he never saw until since this suit was commenced, and which, as he is informed, was placed in the hands of his agent and attorney in fact, J. A. Hays, jr., a few months since.

The construction of this paper is a matter of law for the consideration of your honor, but respondent is advised that there is nothing in the terms or upon its face that constitutes him a partner of said Boyle and Chapman or Boyle and Co., and however this may be as a question of law, respondent reiterates the assertion that, as a matter of fact and intention, he never assented to this or any other agreement with a view of becoming a partner; and if the paper referred to makes him a partner, it is not the agreement to which he gave his assent.

Further answering, respondent denies that it was any part of the agreement between him and said Boyle and Chapman, or Boyle
71 and Co., that he was not to be at liberty to withdraw said sum of $25,000 without their consent, but states that he had a perfect right to withdraw it, or to require the payment of the notes representing it, the only restitution being that *being that* before requiring the payment of any one of the notes he was to give a reasonable notice of such intention, that said Boyle and Chapman should not be taken by surprise, and might have an opportunity to raise the money without embarrassing their business.

Respondent also denies that there was any specific renewal or extention of the agreement between respondent and Boyle and Chapman, and Boyle and Co. upon the withdrawal of said Chapman, and he states it as a fact that before the withdrawal of Chapman respondent was endeavoring to withdraw his money from the firm, with a view to another investment, and that after the withdrawal of Chapman respond-
72 ent continued to press Boyle, as the successor of Boyle and Chapman, for the payment of the notes representing the $25,000, and was assured by said Boyle that he was endeavoring to affect the partnership with several parties who had capital, from whom he expected to obtain funds that would enable him without embarrassing his business to refund respondent's money.

One of the parties with whom said Boyle stated that he was negotiating for this purpose was said to be a resident of New York City, and when this negotiation failed said Boyle represented to respondent that he was endeavoring and hoping to affect an arrangement with a gentleman who resided at Little Rock, Arkansas, and respondent states that the only sense in which it is true, as alleged in the bill, that "his arrangement with Boyle and Chapman was continued with Boyle
73 and Co. up to the time of the assignment made by Boyle for the benefit of his creditors," was that respondent was unable to succeed in his continued efforts to get back his money.

Further answering, respondent says that he has no knowledge whatever of the complainants Chatfield and Wood, nor of any transaction

between them and Boyle and Chapman or Boyle and Co. He does not know what representations were made to them by said Boyle as to the respondent being a partner of his or interested in his business, nor for what reasons complainants extended credit to Boyle or continued their dealings with him. But respondent emphatically denies that said Boyle had any authority, written or verbal, from respondent to make any such representations, and respondent is informed by Boyle that complainants or their agent to whom they refer either misunder-
74 stood or misrepresented what he said upon this subject.

Respondent denies that as to this $25,000 investment said Boyle was in any sense the agent of respondent, or authorized to speak or act for him, and if such representations as those imputed to him were made, respondent is no wise responsible for or bound thereby.

Respondent further states that the only sense in which said Boyle was his agent or factor, was in the assistance he gave respondent in the collection or oversight of certain money debts due respondent entirely disconnected with this loan of $25,000, which have been above referred to, and with no shadow of reason could it be said that this special and limited agency or assistance authorized him to bind respondent, as complainants have charged in their bill.

Further answering, respondent denies that there was any intention on his part in the agreement he made with Boyle and Chapman to
75 evade or violate the laws regulating the interest, or that there was anything corrupt or usurious in the agreement he did make. The measure of compensation that respondent was to receive for the use of his money by them was intended to adapt itself to their comparative success in business, and one of which their creditors certainly had no reason to complain. The amount that respondent was to receive in lieu of usual interest was purely conjectural or hypothetical, and while it might possibly exceed the legal rate, it might on the other hand, as the result proved, fall below that rate, and yield no interest or remuneration at all. The net profits realized by Boyle and Chapman was the standard by which the amount of respondent's compensation was to be determined, and if they made no profits, of course respondent got
76 nothing, and the creditors of Boyle and Chapman lost nothing, but gained thereby.

Respondent is unable to state definitely what amount of compensation he actually received from Boyle and Chapman, or from Boyle and Co., for the use of his money by them. He was a great deal absent from the city of Memphis, and the amount received from Boyle and Chapman and Boyle and Co. were for the most part received by the family of respondent, or paid on their order, and the only account kept was by B. and C. or B. and Co. Respondent has no knowledge as to the manner in which this account was kept by them, having no access to the books, and has only seen fragmentary or synoptical statements, some of which were handed to Mr. Hays during the absence of respondent. How the receipt with which he is thus charged are to be applied respondent does not know, but he states it as a fact that out of re-
77 spondent's claims, which, as above stated, were in the hands of Boyle for collection as the special agent for respondent, a sum amounting to $10,000 or thereabouts (respondent does not know the precise sum), were applied by him, as he informed respondent, to the business of Boyle and Chapman without any special agreement, but with the promise afterwards made to respondent that he should be paid back the amount so applied with interest upon the same.

If the receipts with which respondent is charged be applied to the

repayment of this indebtedness, which respondent supposes he has the right to insist upon, he does not know but that the entire amount received by him from Boyle and Chapman and Boyle and Co. would be absorbed in the payment of this sum and interest, leaving nothing, or if anything a very inconsiderable amount, to be applied as interest upon or compensation for the $25,000 item, and if those receipts of re-
78 spondents are applied upon the $25,000 item, it leaves the $10,000 with interest unpaid. Respondent being only a creditor of Boyle and Chapman and Boyle and Co., and recognized by them in this relation only, had, as already stated no access to nor right to inspect their books, and cannot state therefore how his account stands upon their books, as to the application of the amounts he has from time to time received on account of their indebtedness to him.

Respondent, further answering, says that as to the deed of trust executed by Boyle and Co. to Jael A. Hays, jr., for the benefit of respondent, the charge or intimation of the bill, that it was done for any fraudulent or improper purpose is wholly gratuitous and false, if not malevolent, and the facts in connection therewith that respondent having failed in his efforts to get back his money loaned to said Boyle and Chapman, and fearing that it might be lost, insisted upon some security for
79 his protection, and the deed of trust referred to was executed for this purpose, and no other, as said Boyle expressed his inability to give personal security, which respondent would greatly have preferred.

Respondent believes and so charges that the allegation of complainants that they were deceived and outraged by the execution of this deed is a mere pretence, for as appears from the face of their bill the deed of trust had been made a matter of record and was notice to all the world months before they extended the credit of Boyle as stated in their bill, and took the notes which they file as exhibits thereto; and above and beyond all this, their bill also shows that defendant, Boyle, or Boyle and Chapman, had executed a deed of trust upon their business, property, and assets, to John C. Cooper, for the benefit of J. T. Pettit, nearly three years before the date of the deed to Hays, which said deed to
80 Cooper was also a matter of record, and of which complainants had construction, if not actual notice.

A certified copy of the deed of trust to Hays is herewith filed as Exhibit No. 2 to this answer, and as a part thereof, and respondent relies upon the same as an unimpeachable and valid instrument.

The ground assumed in the bill that the deed to Hays is void in law because a prior deed of trust had been executed to Cooper, is, as respondent is advised, wholly untenable, and if sustained would overturn the long-established and universally recognized equity doctrine as to the rights of junior incumbrances.

Respondent repels as unfounded and unjust the charge of the bill that there was collusion between the parties to the respective deeds to Cooper and Hays for the purpose of giving respondent an unfair
81 advantage and enabling him to anticipate the maturity of the deed of trust to Hays. The reason why the trustees Cooper and Hays waited in the advertisement of sale on the 15th of January, 1877, when the deed to Hays did not mature 6 of March, is an obvious one who is not seeking for a pretext to make an offensive accusation.

The value of the machinery and fixtures included in these respective deeds depended in a great measure upon the property being preserved and sold intact, as detached portions of it would have been comparatively valueless for any purpose, and as the deed to Cooper did

not cover it all and Pettit's debt was comparatively small, in order to avoid a sacrifice there was a manifest necessity for selling under both deeds at once; and an additional reason for doing so, and for selling as promptly as possible, were that rents were accruing for the build-
82 ing in which the property was located, and the owner was demanding possession in order to prepare it for another occupant.

Respondent therefore insists that this co-operation of the two trustees in the sale, instead of being a fraud upon any one, was for the benefit of all parties in interest, and applied to unsecured creditors as well as to those secured by the deeds.

Respondent has already replied to the charge of usury, which is reiterated in complainant's bill; he submits the facts and circumstances to the consideration of your honor, and denies that there was any usury in fact or in law in the agreement he made with Boyle and Chapman, and certainly there was no usurious intent.

The charge of complainants that respondent made his headquarters at Boyle and Chapman's, or in the building on Main st., where their business was carried on, even if true in point of fact, which it is
83 to a partial extent, is not a circumstance, as he submits to your honor, either to constitute him a partner of those occupying the building for business purposes or to excite the slightest suspicion in an honest mind of collusion, fraud, or any impropriety whatever, and only indicates the ext'emities to which complainants are driven in their efforts to deprive respondent of an advantage to which he is both legally and equitably entitled.

The charge, however, when the facts are stated, is wholly insignificant for any purpose. Respondent did for a time, when he had no business office of his own, and before Mr. Hays became a member of his family, avail himself of the kindly offer of Boyle and Chapman to receive his mail and transact his private business at their store, but, as already stated, respondent was a great deal absent from the city (complainants say a "non-resident") and had not much occasion for business
84 quarters anywhere in Memphis. After his connection with the insurance business terminated and during that time he had a business office of his own.

Further answering, respondent supposes it to be true as stated in the bill, that Boyle and Co. are insolvent, though of this he has no personal knowledge. Whether true or not, it does not postpone his prior legal and equitable rights to complainants and the general creditors of the concern, and should there be any surplus after the debts secured by the deeds of trust are satisfied or out of any assets not covered by those deeds, respondent will insist upon his pro rata share to be applied to the unsecured portion of his debt against the concern, and to such portion of his secured debt as may remain unsatisfied after the trust is executed.

And now having fully answered, respondent prays that the in-
85 junction issued in the cause may be dissolved, and that he be hence dismissed with his costs.

CLAPP AND MEUX,
For Respondent.

EXHIBIT No. 1.

This agreement, made and entered into by and between Boyle and Chapman of the first part, and Jefferson Davis, of the county of Warren, State of Mississippi, of the second part, witnesseth:

That the party of the first part, for and in consideration of the sum of

twenty five thousand dollars, paid by party of the second part, the receipt of which is hereby acknowledged, and for which the party of the first part have executed their notes dated July 1st, 1874, at one day after date, for five thousand dollars each, do agree that the party of the second part shall receive in compensation therefor a sum equal to
86 one-third (⅓) of the net profits of their business as booksellers, stationers, printers, and blank-book manufacturers, now located at 279½ Main street in Memphis, Tennessee.

It is understood and agreed that when the party of the second part wishes to obtain a payment on said notes of the first party, he may draw upon them at any time at not less than ten days' notice, the amount of no one draft to exceed the amount of one of their notes unless otherwise mutually agreed.

It is also agreed that instead of an annual payment of the compensation hereinbefore agreed to be paid to second party, he may from time to time draw on said first party for such sums as he may wish, not exceeding the compensation agreed to be paid him and to be charged against the same.

Witness our hands this day of July, A. D. 1874.

BOYLE AND CHAPMAN.

87 EXHIBIT NO. 2.

This indenture, made 8th day of March, 1876, by and between W. F. Boyle, doing business in the firm-name of Boyle and Co., of Memphis, Tennessee, of the first part, and Hon. Jefferson Davis of the second part, and J. H. Hays, jr., of the third part, the two last also citizens of Memphis, Tennessee, witnesseth:

That the said party of the first part doth bargain, sell, assign, and transfer to said party of the third part all the machinery, tools, fixtures, cases, types, presses, recently owned by the firm of Boyle and Chapman and now the property of the first part, and used by them, and now at 279½ Main street, Memphis, Tennessee, in the business printers and stationers and bookbinders, and also the boiler and steam-engine located at same place, and the fixtures, counters, show-cases and iron safe
88 in the storehouse No. 279½ as aforesaid.

But this is in trust, that is to say, the party of the first part is the debtor to the Hon. Jefferson Davis in the sum of twenty-five thousand dollars ($25,000), as is evidenced by five (5) notes of five thousand dollars each, dated July 1, 1874, and made by the then firm of Boyle and Chapman, and due one day after date, and desires to secure the party of the second part in the payment of said indebtedness.

Now, should said party of the first part pay off and discharge said indebtedness on or before the first day of March, 1877, then this deed is void, but should he fail and at said date any part of said liability should be outstanding and unpaid, then the said party of the third part after advertising the time, place and terms of sale for twenty days in
89 some newspaper in Memphis, Tennessee, shall at the time and place designated in said advertisement offer said property for sale at public vendue to the highest bidder for cash, and the proceeds of the sale after first paying expenses of executing the trust he will appropriate to the pro tanto discharge of said notes, or as much of the same as may be still due.

In witness whereof the parties hereto set their hands and seals the day and date first above written.

W. F. BOYLE. [SEAL.]
JEFFERSON DAVIS, [SEAL.]
Per J. A. HAYS, JR., *Att'y.*
J. A. HAYS, JR. [SEAL.]

STATE OF TENNESSEE,
Shelby County:

Personally appeared before me, Jno. J. Shea, deputy clerk of the county court of said county, W. F. Boyle, the within-named bargainor, with whom I am personally acquainted, and who acknowledged
90 that he executed the within instrument for the purposes therein contained.

Witness my hand at office this 10th day of March, 1876.

JNO. J. SHEA,
Dep. Clerk.

STATE OF TENNESSEE,
Shelby County:

The foregoing instrument with clerk's certificate was filed in my office for registration on the 24th day of April, 1876, at 1.35 o'clock p. m., and noted in note book No. 9, page 203, and was recorded on the same day.

H. W. GRIEBEL,
Register.

STATE OF TENNESSEE,
Shelby County:

I, H. W. Griebel, register of said county, hereby certify the enclosed 3 pages to be a full, true, and perfect copy from the records of my office of a trust deed from W. F. Boyle to J. A. Hays, jr., *jr.*, of record in Chattel book No. 10, page 87.

91 Witness my official signature and seal at office this 27th day January, 1877.

H. W. GRIEBEL.

Fee, $1.75.

Answer of W. F. Boyle.—Filed Feb'y 19, 1877.—*E. A. Cole, C. and M.*

The answer of W. F. Boyle to the bill of complaint filed in the above-entitled cause.

For answer thereto or to so much thereof as he is advised that it is material for him to answer, answering says:

That he admits the allegations of said bill as to the indebtedness of respondent to complainants' firm, and that a large part of this debt originated during the existence of the firm of Boyle and Chapman and was formerly evidenced by the notes of said firm, and after its dissolution the present notes were executed by respondent in his new business name of Boyle and Co.

92 Respondent states that he has examined the answer prepared by solicitors for the defendant Jefferson Davis, and the one filed in this cause, in which is given in detail the arrangement by said Davis with the firm of Boyle and Chapman as to the loan of $25,000 to said firm, and respondent adopts the said statements as his own.

Respondent states that during a part of Mr. Davis' time as president of the Carolina Life Insurance Company respondent was its secretary, and in addition to the business relations that existed between them growing out of this connection Mr. Davis gave to respondent his personal confidence. In this way respondent became possessed of the knowledge that he had the sum of money about which this controversy has arisen, and that it was his wish to keep it profitably invested. After respondent became disconnected with said company he devoted
93 himself to the management of the business of Boyle and Chapman. Believing that said business was already prosperous to justify an additional investment, and that such an investment would enable the firm to make a safe and profitable expansion in its various departments. Respondent, knowing that Mr. Davis had this sum, first undertook to induce him to take an interest as a partner in said firm. This he positively declined to do; but being willing to assist respondent, and desiring to invest his money so as to bear the chances of a fair return, after taking the counsel from his attorney, he determined to make the arrangement (and did make it) set out in his said answer.

Respondent states that Mr. Davis was unwilling to make any arrangement that would place him in the relation of partner to said busi-
94 ness; this he gave respondent as well as his own legal advisor to understand, and it was only after he was advised that this arrangement did not involve a partnership that he agreed to make it.

Respondent adopts the statement of his answer, that if the arrangement set out therein makes a partnership, it is only from construction of law, and it is in force of and contrary to the instruction of the parties.

Respondent further adopts as his own that part of said Davis' answer in which he says that after the assurance aforesaid he "agreed to an arrangement by which he was to lend to said Boyle and Chapman $25,000.00, for the use of which they were to pay him a sum not out of but equal to ⅓rd of the nett profits of their business," and respondent adds thereto that this was the actual and the only arrangement made
95 between them. Respondent states that Exhibit No. 1 to Mr. Davis' answer gives the agreement between them. This is in respondent's handwriting and was prepared soon after the arrangement was made, but although signed by Boyle and Chapman, was not personally delivered to Mr. Davis. Subsequently, however, to his departure for Europe, upon the demand of J. A. Hayes, jr., his agent and relative, the paper was placed in his hands.

Respondent denies that said Davis was not to be permitted to withdraw at his own option said loan. He had the notes of Boyle and Chapman evidencing the amount of this debt to him, and, as any other creditor, was at liberty to demand and press the payment of his debt at any time after ten (10) days' notice, this restriction having been imposed by Boyle and Chapman for their own protection. Respondent de-
96 nies that there was any renewal of extension of this indebtedness upon the organization of Boyle and Co. The debt remained in statu quo. Mr. Davis and his agent aforesaid for its payment, while respondent made every effort to make such business connections as would enable him to discharge it.

Respondent denies that he stated to complainants or to any agent of theirs that Mr. Davis was a partner in with Boyle and Chapman or Boyle and Co. Respondent did undertake to state the facts of this arrangement as thus existed to complainant's agent, and no doubt conveyed to him the impression that the money loaned *to* Mr. Davis to the concern would with some degree of permanence remain in the business,

for it was respondent's own impression that Mr. Davis would not
97 push him. But respondent would state that while he had this impression, it was not derived from any promises of Mr. Davis, but was from inference from this fact, that the business promised to be profitable to such an extent as to induce Mr. Davis to keep his capital in the said firm's employ, and especially as respondent thought Mr. Davis would be disposed from his feeling of personal kindness to give him or his firm the use of this money as long as he could safely do it. It would have been false in fact and at the same time a most ungenerous return of a long-continued favors, if respondent having stated to complainants or their agent that Mr. Davis was or ever had been a partner in his house. Respondent states that said agent misunderstood his statement or misapprehend' its meaning, and thus convey' a false impression to his
98 employer. He denies that he was the agent of factor of Mr. Davis, or that he had authority to bind him.

He further denies that the agreement above set out was made to avoid the usury laws; at any rate it was not respondent's intention to pay nor does he believe its the Mrs. Davis charge usury. Respondent believed the agreement to promise large contingent benefit to Mr. Davis, but equally believed that there was a promise of corresponding advantage to Boyle and Chapman and their creditors. Respondent states that a considerable amount of money has been paid to him, or to witness for him, on account of the indebtedness of Boyle and Chapman to him. In making these payments, respondent's firm had in view their general debt (which in addition to the sum aforesaid included other sums of money unsecured), and have never applied for their appropria-
99 tion to any particular debts. If the creditor had not made the appropriation then respondent is willing for this court to make it.

Respondent denies that there was fraud or collusion in the execution of the deed of trust made for Mr. Davis' protection. It was only executed after all efforts to repay him had been exhausted. He had from the beginning manifested kindness for respondent, had loaned his firm large sums of money without security, trusting alone to the integrity and trust of his debtors for the safety of the loan, and when desiring repayment, pressed for it with a view to inflict a least injury possible, and respondent felt inclined to prefer him, as he was advised he had a perfect right under State laws to do.

Respondent states that he is satisfied that the existance of this
100 trust-deed became known to his creditors soon after its registration. Through the channel of the commercial agency it was at an early date thereafter made public. Very soon he began to receive letters of inquiry and protest from his creditors, and he thus discovered that the knowledge of its existance had destroyed, or nearly so, his credit. Whether actual knowledge of its execution came to complainants he does not know.

Respondent denies, so far as he was concerned, that any unfair advantage was sought in making the joint trustee sale before the deed of the Davis deed of trust. He assumed that both deeds were good in the order in which they were given, and knowing that it would take all the property ordered to pay both debts, and it was that kind of property which could not be separated without injury, he consented
101 to the joint sale. Respondent admits the insolvency of Boyle and Chapman.

Having fully answered, he prays to be discharged.

WILSON AND BEARD, *Sol'rs.*

STATE OF TENNESSEE,
Shelby County:

Personally appeared before me, Edmund A. Cole, clerk and master of the chancery court of Shelby County, W. F. Boyle, who made oath in due form of law that the statements made in the foregoing answer as of his own knowledge are true, and those made upon information he believes to be true.

W. F. BOYLE.

Sworn to and sub. before me this 17th day of Feb'y, 1877.

E. B. McHENRY,
D. C. and M.

102 *Report of advance bid by Spec'l Comm'r J. C. Cooper.—Filed Feb'y 22, 1877, E. A. Cole, C. and M.*

To the Hon. R. J. Morgan, chancellor of the chance'y court of Shelby County:

The undersigned, trustee and special commissioner of the court in the above styled cause, begs leave to report:

That on the opening of the biddings in the cause as heretofore ordered by your honor, on the petition of the complainants, Chatfield and Wood, the same were kept open by the undersigned until noon of Saturday the 17th inst., as required by the order opening the biddings, and the defendant, Jefferson Davis, through his agent, advanced the sum of $500 upon the bid of $5,000 made by said Chatfield and Wood, as will appear from the paper herewith filed, which was the only bid offered, the
103 said Chatfield and Wood, through their solicitor, declining to make any further bid.

The undersigned further reports that the said Davis has paid over to him the sum of $2,500 cash, heretofore reported in connection with his original bid, and has executed and delivered to the undersigned his two notes of this date for the sum of $1,350 each, with J. A. Hays, jr., and Thos. H. Allen, as sureties thereto, payable to the undersigned at six and twelve months from date, with 10 per cent. interest per annum, according to the terms of your honor's decree hereinbefore made.

Respectfully submitted.

Feb'y 17th, 1877.

JOHN C. COOPER,
Trustee and Sp'l Comm'r.

Report of J. C. Cooper, trustee and special commissioner.—Filed Feb'y 22, '77, E. A. Cole, C. and M.

To the honorable chancery court of Shelby County, Tennessee:

104 The undersigned, John C. Cooper, trustee and special commissioner in the above styled cause, begs leave to report to the court an account sales after the property, mentioned in the decree of the court directing him to sell the same, and also to report the disbursements made by him according to said decree.

He reports that he sold in gross to Jefferson Davis, through his agent, J. A. Hays, the boiler, steam engines, the machinery, belting of every kind, tools, types, cases, printing props, and other non-consumable property mentioned in the decree, recently owned by Boyle and Chapman in the building No. 279 Main street, Memphis, and used by them in

connection with their business as printers, stationers, and bookbinders,
for the sum of four thousand and four hundred dollars, for which
105 he has paid $2,800 in cash, and executed his two notes for $1,350.00
each, one at 6 mo's with interest at 10 per cent. per annum, and at
12 mo's after date at same interest, both payable at the German National
Bank, in Memphis, with J. A. Hays, jr., and Thos. N. Allen, securities
which security is considered amply sufficient; he has sold all other arti-
cles named in the decree as may been seen in the statement below, viz:

Sold.

To Jefferson Daivis, boiler, engine &c., as named above, for	$5,500 00
To Wills and Co., 6 show-cases and counter, cash	110 00
A. F. Dodd and Co., counter and shelves, cash	75 00
1 desk, 1.00; 1 desk, 5.50; cash	6 50
To Selden, Ward and Co., 1 iron safe, cash	35 00
" Vredenburg, 1 counter, cash	5 00
	$5,731 50
For which I have received in cash	3,031 50
106 2 notes of $1,350 on each, on Jefferson Davis, J. A. Hayes, jr., and Thos. H. Allen	2,700 00
	$5,731 50

Statements of cash rec't's and payments.

Received in cash in all $3,031.50		$3,031 50
Cash paid for advertising sale to the Appeal office	20 00	
Cash paid for same to Avalanche office	19 00	
Cash paid, insurance on property whilst in my possession	23 38	
Cash paid W. A. Wheatly for rent of house containing property sold	42 66	
Cash paid J. I. Pettit on notes and insurance	2,524 17	
Cash paid J. A. Hays as per account under vouchers filed	76 19	
Sp'l commissioner commissions	50 00	
Do. additional	25 00	
		2,780 50
Balance cash deposited in German National Bank.		$251 10
Two notes for $1,350 each, also deposited in said bank for collection as ordered in decree		2,700 00
107 Subject to the order of the court.		2,951 10

The above report and statement of acc't is respectfully submitted to the court.

Feb'y 22d, 1877.

JOHN C. COOPER,
Trustee and Special Commissioner.

$1,350.90.] MEMPHIS, TENN., *Feb'y 19th*, 1877.

Six months after date we or either of us promise to pay to the order of John C. Cooper, special commissioner, thirteen hundred and fifty dollars, negotiable and payable at the State National Bank of Memphis, Tennessee, for value received, with interest at the rate of 10 per cent. per annum.

JEFFERSON DAVIS,
Per J. A. HAYS, JR., *Agent.*
J. A. HAYS, JR.
THOS. H. ALLEN.

(Endorsed:)
Without recourse.

JOHN C. COOPER,
Trustee and Special Commissioner.

108 $1,350.00.] MEMPHIS, TENN., *Feb'y* 19, 1877.

Twelve months after date we, or either of us, promise to pay to the order of John C. Cooper, special commissioner, thirteen hundred and fifty dollars, negotiable and payable at the State National Bank of Memphis, Tenn, for value rec'd, with interest at the rate of ten per cent. per annum.

JEFFERSON DAVIS,
Per J. A. HAYS, JR., *Ag't.*
J. A. HAYS, JR.,
THO'S H. ALLEN.

(Endorsed.)
Without recourse.

JOHN C. COOPER,
Trustee and Special Commissioner.

Decree confirming sale.—Ent. Feb'y 22, 1877. *M. B. p.* 17, 95.

Be it remembered that on this 22d day of February, 1877, this cause came on again to be heard upon the report of the trustee and
109 special commissioner, J. C. Cooper, and the papers heretofore read, which report is in words and figures following: (See page .) And it appearing to the court that said report has not been excepted to, and that further time to file exceptions is waived by complainant's solicitors, and that said trustee and special commissioner has in all respects conformed to the orders of the court heretofore made in the premises: It is therefore ordered, adjudged, and decreed that said report and the sale made by said trustee and special commissioner, heretofore reported by him, to Jefferson Davis, be and the same are in all things hereby approved and confirmed, and that the said Davis or his agent be put in possession of the property so purchased by him.

It is further ordered, adjudged, and decreed that the said trustee and special commissioner pay out of any funds in his hands not
110 heretofore appropriated, the expenses incident to the insurance of said property, and to the advertisement of the sale of the same by J. A. Hays, j'r, under the deed of trust to him, and referred to in the pleadings, proper vouchers for such expenses being required by said trustee and special commissioner, and filed by him with the papers in the cause.

Order to refund to Omberg, assignee, excess on pro rata of J. Davis.—Ent. March 14, 1877. *M. B.* 17, *p.* 269.

In this cause it appearing to the court, from the papers already on file, that the distribution made by J. A. Omberg, assignee, was upon the basis that the proceeds of the property sold by John C. Cooper, special commissioner, was the sum of $3,081.50, when by advances on the bid the actual sum brought by the sale was $5,731.50, which latter
111 sum leaves the claim of Hon. Jefferson Davis, if sustained for participation in the proceeds of property assigned to Omberg, $2,307.95 less than assumed by Omberg in making the distribution, it is therefore ordered that the clerk and master refund to James A. Omberg the sum of $346.19, being 15 per cent. upon the excess paid into court upon the said claim of Jefferson Davis, which sum is to be carried by said Omberg into his accounts for distribution among all the creditors of W. F. Boyle.

This order is in no wise to be an adjudication of the claim of said Jefferson Davis, but is merely intended to restore to the assignee the excess paid by him into court under the former orders and decrees.

112 *Petition and claim of Powers Paper Co., Snider and Hoole and al.—Filed March* 16, 1877. *E. A. Cole, C. and M.*

The petition of Powers Paper Company, Snider and Hoole, and Louis Snider's Sons, respectfully states and shows to the court that they are respectively creditors of the late firm of Boyle & Co., defendants in this cause, of the class named in the bill of complaint herein, and for whose benefit this bill was brought, and their several claims and demands against said firm, and of the character and arose under the circumstances hereinafter more fully set out.

L. J. Powers, doing business solely under the name and firm of the Powers Paper Company, resides and does business at Springfield, in the State of Massachusetts, and is a creditor of said defendants, Boyle & Co., to the amount of $2,689.60, as evidenced by five promissory
113 notes, all bearing date Aug. 25th, 1876, payable to the Powers Paper Company, at Fourth National Bank of Memphis, Tenn.; one for $518.81, due Nov. 1, 1876, on which is due $2.80 protest fees; one for $518.80, due Dec. 1, 1876; one for $518.80, due Jan'y 1, 1877, on which is due $2.80 protest fees; one for $518.80, due Feb'y 1, 1877, and one for $518.80, due March 1, 1877, all bearing interest at 10 per cent. from and after October 1, 1876, and on which indebtedness is to be credited the sum of $389.10, received by petition from J. A. Omberg, assignee of Boyle and Co., on Feb'y 6, 1877. Copy of said five notes are hereto attached as exhibits.

Edwin Hoole, surviving partner of the late firm of Snider and Hoole, composed of petitioner and L. Snider, resides and does business at Cincinnati, Ohio, and as such surviving partner is a creditor of the said defendants, Boyle and Co., to the amount of $1,232.61, as evidenced by
114 four promissory notes, to wit: One dated Nov. 11, 1876, due at 90 days from date, for $322.47; one dated Sept. 28th, 1876, due at two months from date, for $266.53; one dated Oct. 28th, 1876, at 75 days from date, for $320.92, and one dated Oct. 13th, 1876, at 60 days after date, for $319.59, all payable to the order of Snider and Hoole, at the Fourth National Bank, and on the last-named note $3.10 protest fees having accrued, and on which indebtedness is to be credited the sum of $184.42, received by petitioner from J. A. Omberg, assignee of Boyle and Co., on or about Feb'y 8, 1877.

Copies of said four notes are hereto attached as exhibits.

Louis Snider's Sons, a firm composed of H. Snider and H. J. Snider, and doing business and residing at Cincinnati, Ohio, are creditors of defendants Boyle and Co. to the amount of $1,103.76, as evidenced by two promissory notes and an open account, to wit, two notes dated
115 April 21, 1876, and due respectively on Aug. 9 and Sept. 9, 1876, with interest from date, at Union and Planters' Bank, each for the sum of $497.46; the sum of $100 having been paid and credited on the first of said notes Aug. 8, 1876, and an open account for goods and merchandise sold to said defendants in Oct., 1876, to the amount of $208.64, total $1,103.76, on which indebtedness is to be credited the sum of $165.56, received by petitioners from J. A. Omberg, assignee of Boyle and Co., on Feb'y 6, 1877.

Copies of said two notes are hereto attached as exhibits.

Petitioners show that all such indebtedness accrued for goods and

merchandise sold and delivered by petitioners severally to said defendants.

Petitioners are advised and informed that this bill is brought for the benefit of all such creditors of Boyle and Co. as may choose to claim the benefits thereof, and they now come and ask the leave of the
116 court that they may be made parties complainant in the cause by amendment of the bill in order that they may share in the suit and the prosecution thereof, and they join in the allegations and prayer of the bill in like manner as if they had been original complainants herein, adopting all the same as their own and in their own behalf made, propounded, and prayed, and asking that all necessary orders be made as their said several claims and demands.

TAYLOR AND EDGINGTON,
Sol'rs for Petitioners.

PIERCE AND DIX.

Copies of notes.

$518.81.] MEMPHIS, TENN., *Aug.* 25, 1876.

On November 1, 1876, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{81}{100}$ dollars, with interest at 10 % from Octo. 1, 1876, at Fourth National Bank of Memphis, Tenn., value received.

(Signed) BOYLE AND COMPANY.

Protest fees, $2.80.

117 $518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On December 1st, 1876, after date, we promise to pay to the order of Powers Paper Company five hundred and eigheeen $\frac{80}{100}$ dollars, with interest at 10 % from Octo. 1st, 1876, at Fourth National Bank of Memphis, Tenn., value received.

(Signed) BOYLE AND COMPANY.

$518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On January 1st, 1877, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10 % from Octo. 1st, 1876, at Fourth National Bank of Memphis, Tenn., value received.

(Signed) BOYLE AND COMPANY.

$518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On January 1st, 1877, after date, we promise to pay to the order of the Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10 % from Octo. 1st, 1876, at Fourth National Bank of Memphis, Tenn., value received.

Protest fees, $2.80.

(Signed) BOYLE AND COMPANY.

118 $518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On Feb'y 1st, 1878, after date, we promise to pay to the order of Power's Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10 % from Octo. 1st, 1876, at Fourth National Bank of Memphis, value received.

(Signed) BOYLE AND COMPANY.

$518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On March 1st, 1877, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10% from Oct. 1st, 1876, at Fourth National Bank of Memphis, Tenn., value received.

(Signed) BOYLE AND COMPANY.

Copies of Boyle's notes due Snider and Hooel.

$322.47.] MEMPHIS, TENN., *Nov.* 11, 1876.

Ninety days after date, we promise to pay to the order of Snider and Hooel three hundred and twenty-two $\frac{47}{100}$ dollars, at Fourth National Bank, value received.

BOYLE AND COMPANY.

119 $266.53.] MEMPHIS, TENN., *Sept.* 28, 1876.

Two months after date, we promise to pay to the order of Snider and Hoole two hundred and sixty-six $\frac{53}{100}$ dollars, payable at Union and Planters' Bank.

BOYLE AND COMPANY.

$320.92.] MEMPHIS, TENN., *Oct. 28th*, 1876.

Seventy-five days after date, we promise to pay to the order of Snider and Hoole three hundred and twenty $\frac{92}{100}$ dollars, at the Fourth National Bank, value received.

BOYLE AND COMPANY.

$319.59.] MEMPHIS, TENN., *Octo.* 13, 1876.

Sixty days after date, we promise to pay to the order of Snider and Hoole three hundred and nineteen $\frac{59}{100}$ dollars, at Fourth National Bank, value received.

Protest fees, $3.10.

BOYLE AND COMPANY.

On said notes have been paid the pro rata division of 8 1/3% by Omberg, receiver.

120 *Copies of notes.*

$497.46.] MEMPHIS, TENN., *April 21st*, 1876.

On Aug. 5th, after date, we promise to pay to the order of Louis Snider's Sons four hundred and ninety-seven $\frac{46}{100}$ dollars, at Union and Planters' Bank of Memphis, value received, with interest from date.

(Signed) BOYLE AND COMPANY.

(Endorsed:) One hundred dollars, paid Aug. 8, '76.

$497.46.] MEMPHIS, *April 21st*, 1876.

On Sept. 9th, after date, we promise to pay to the order of Louis Snider's Sons four hundred and ninety-seven $\frac{46}{100}$ dollars, at Union and Planters' Bank of Memphis, value received, with interest from date.

(Signed) BOYLE AND COMPANY.

Order to deposit in German National Bank.—Ent. M'ch 16th, 1877. M. B. 17, p. 317.

121 It appearing from the stated account filed herein on Feb'y 22, 1877, by John C. Cooper, trustee and special commissioner under appointment by the court in this cause, that he has, in conformity to the previous decree of this court, deposited in the German National Bank of Memphis, as a special deposit, the sum of two hundred fifty-one and $\frac{10}{100}$ dollars ($251.10), the net cash balance in his hands arising from sales, and has also deposited in said bank the two notes given to said Cooper as commissioner by Jefferson Davis, J. A. Hays, jr., and Thos. H. Allen, dated Feb'y 19th, 1877, for the sum of thirteen hundred and fifty dollars ($1,350.00) each, payable respectively six and twelve months after date, and bearing interest at the rate of ten per cent. per annum, and endorsed without recourse by John C. Cooper as trustee and special com-
122 missioner: It is now ordered and decreed that the said German National Bank do now hold subject to the future orders of this court the said cash deposit, and the said notes and the proceeds of said notes when collected, which notes the said bank is instructed to collect when due, and to await as to the disposition of such funds and notes the further orders of the court in this cause, and that copy of this order be served on said German National Bank by the sheriff, who shall make due return of such service.

Order admitting parties complainant.—E. M'ch 16, 1877. M. B. 17, p. 318.

In this cause, upon application by petition made by Powers Paper Company, a firm composed of L. J. Powers solely, and residing and doing business in Massachusetts, and Snider and Hoole, a firm
123 of which Edwin Hoole is surviving partner, residing and doing business in Ohio, and Louis Snider's Sons, a firm composed of H. Snider and H. J. Snider, and residing and doing business in Ohio, and it appearing from their petition that said parties are creditors of the firm of Boyle and Co., defendants herein, the amounts of their several claims being set out in their petition, and that they are creditors of the class named generally in the bill, and for whose benefit in part the bill is brought, and said parties asking to be allowed to join in and take the benefits of the bills herein, it is accordingly ordered that said petitioners, Powers Paper Company, Snider and Hoole, and Louis Snider's Sons, be admitted to the cause and joined as complainants in the bill by simple amendment, and that they be allowed hereafter to act as com-
124 plainants in the prosecution of the cause and in due time to prove and make out their claims and to claim all the benefits of the bill, and no cost bond need be given by said petitioners, nor need any supplemental process be issued in respect to said petition.

Order dismissing bill as to J. A. Omberg.—E. M'ch 23, 1877. M. 17, p. 427.

In this cause it appearing to the court by a statement of J. A. Omberg that all the creditors who have demanded of James A. Omberg, the assignee, to join in this litigation, have come in and had themselves made parties therein, it is therefore on motion adm'r that this bill be dismissed so far as said Omberg is concerned, and he go hence without day.

Order allowing new parties.—Ent. Mch 24, 1877. *M. B.* 17, *p.* 434.

125 Upon motion of S. A. Tower and Co. and H. B. Graham and Bros., they are allowed to make themselves parties complainant, as creditors of W. F. Boyle and Co.

Petition for removal of cause to U. S. court.—Filed April 4, 1877. *E. A. Cole, C. and M.*

To the Hon. R. J. Morgan, chancellor, &c.:

Your petitioner, the above-named complainant, W. H. Chatfield, William Woods, and John S. Woods, partners, as Chatfield and Woods, L. J. Powers, doing business as the Powers Paper Company, Edwin Hoole, surviving partner of the firm of Snider and Hoole, composed of L. Snider and said Edwin Hoole, H. Snider and H. J. Snider, doing business as Louis Snider's Sons, H. B. Graham and , doing business as H. B. Graham and Co., S. A. Fower and , doing business
126 as S. A. Fower and Co., being all the parties complainant in said suit, would respectfully show to the court that all the *matters* of the above-named firms of Chatfield and Woods, and Louis Snider's Sons and said Edwin Hoole, are citizens of the State of Ohio; that the said L. J. Powers is a citizen of the State of Massachusetts; that all the members of said firm of H. B. Graham and Co. are citizens of the State of Missouri; that all the members of said firm of S. A. Tower and Co. are citizens of the State of New York; that the said defendant W. F. Boyle, and J. A. Hays, jr., are citizens of the State of Tennessee, and are residents of the city of Memphis, Tennessee, and that said Jefferson Davis is a citizen of the State of Mississippi, and that this is a controversy between citizens of different States, and that the amount in controversy exceeds the sum of five hundred dollars, exclusive of costs.

127 Petitioners would further show that this their petition is filed before or at the term at which said suit could first be tried, and before the trial thereof petitioners have tender' to the court their bond, with good and sufficient surety, in the sum of two hundred and fifty dollars, conditioned that they will, on or before the first day of the next term of the circuit court of the United States for the sixth judicial circuit, western district of Tennessee, file in said court copies of all processes, pleadings, orders, testimony, evidence, papers, and a copy of the record of this suit, and to enter their appearance in said court, and that they will pay all costs, should it be held that this suit was wrongfully or improperly removed to said court.

Petitioners therefore pray that this cause be removed to the circuit court of the United States, sixth judicial circuit, western district of Tennessee. And petitioners will ever pray, &c.

128 PIERCE AND DIX,
J. A. TAYLOR,
T. B. EDGINGTON, AND
GEO. GILLHAM,
Sol'rs for Petitioners.

STATE OF TENNESSEE,
County of Shelby:

Before me personally appeared Henry F. Dix, who, being duly sworn, made oath that the facts above stated are true to the best of his knowledge, information, and belief.

HENRY F. DIX.

Sub. and sworn to before me this 4th day of April, 1877.

R. J. BLACK,
D. C. and M.

Bond on petition for removal.—Filed April 4th, 1877, E. A. Cole, C. and M.

Know all men by these presents that W. H. Chatfield, William Woods, and John S. Woods, partners as Chatfield and Woods, Edwin
129 Hoole, surviving partner of the firm of Snider and Hoole, and H. Snider and H. J. Snider, partners as Louis Snider's Sons, all of Cincinnati, Ohio, L. J. Powers, doing business as the Powers Paper Company of , State of Massachusetts, H. B. Graham and , doing business as H. B. Graham and Co., of St. Louis, Mo., and S. A. Tower and , partners as S. A. Tower and Co. of New York, as principals, and Henry F. Dix as surety, are held and firmly bound unto W. F. Boyle and J. A. Hays, jr., of Memphis, Tenn., and Jefferson Davis, of Warren County, Mississippi, in the penal sum of two hundred and fifty dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, and firmly by these presents. Witness our hands and seals this 4th day of April, 1877.

The condition of the above obligation is such, that whereas the said Chatfield and Woods, Louis Snider's Sons, Edwin Hoole, surviv-
130 ing partner, &c., L. J. Powers, as the Powers Paper Company, H. B. Graham and Co., and S. H. Tower and Co. have this day filed in the chancery court of Shelby County, Tennessee, their petition for the removal of the suit of W. H. Chatfield et als. against W. F. Boyle et als. from said chancery court to the United States court for the district of West Tennessee:

Now, should said Chatfield and Woods, Louis Snider's Sons, Edwin Hoole, the Powers Paper Company, H. D. Graham and Co., and S. A. Tower and Co., on or before the first day of the next term of said United States court, file copies of all processes, pleadings, orders, testimony, evidence, and papers in said suit of W. H. Chatfield and others, against W. F. Boyle and others, and a copy of the record in this suit, and enter their appearance in said court and pay all costs that may be adjudged against them for the wrongful or improper removal of said cause, then this obligation to be null and void; otherwise to remain in
131 full force and effect.

CHATFIELD AND WOODS,
By PIERCE AND DIX, *Att'ys.*
THE POWERS PAPER COMPANY,
By PIERCE AND DIX, *Att'ys.*
EDWIN HOOLE, *Sur. Part.*,
By J. B. EDGINGTON, *Att'y.*
LOUIS SNIDER'S SONS,
By J. A. TAYLOR, *Att'y.*
H. B. GRAHAM AND CO. AND
S. A. TOWER AND CO.,
By GEO. GILLHAM, *Att'y.*
HENRY F. DIX, *Surety.*

Deposition of J. W. Clapp.—Filed April 14, 1877. E. A. Cole, C. and M.

J. W. Clapp, witness on behalf of Jefferson Davis in the above-stated cause, deposes and says, that he is a practicing att'y in the city of Memphis, senior member of the firm of Clapp and Menx, and has been engaged in the practice for nearly forty years; that he is acquainted with the defendants W. F. Boyle and Jefferson Davis, but not

132 with complainants; that some time in May or June (to the best of his recollection), 1874, the defendants Davis and Boyle called at the law office of witness to get his legal advice and direction as to an arrangement by which it was proposed that Mr. Davis should lend Boyle, or the firm of Boyle and Chapman, of which he was a member, a sum of money.

Witness had known Mr. Davis intimately for a great many years and was frequently consulted by him as to his business affairs. In the conversation that occurred it was stated by one or both of said defendants that the object of their visit to witness was to ascertain if any arrangement was practicable by which Mr. Davis could lend his money and receive a compensation for its use out of its profits of the business of Boyle and Chapman without rendering himself liable as a partner.

133 Mr. Boyle stated that he had endeavored to persuade Mr. Davis to take an interest in their business as a partner, but could not induce him to do so; and Mr. Davis remarked that a partnership, however profitable, would not suit his arrangement or engagements at all, but that he was will ng to let Mr. Boyle have the use of his money and to take his chances and pay out of the proceeds of the business if this could be legally done without his becoming bound as a partner.

A paper or memorandum of an agreement looking to such an arrangement as that suggested by Mr. Davis was produced and handed to witness for his inspection.

Having refreshed his memory as to the doctrine as recognized by the supreme court of Tennessee by turning to two or three reported cases to which the attention of Mr. Davis was called, witness stated the principal as announced by the supreme court to be that the fact of

134 partnership was a question of intention, and that an agreement to pay Mr. Davis a specific proportion of the profits of the business of Boyle and Chapman for the use of his money by the firm would not make Mr. Davis a partner of theirs. Out of abundant caution, however, witness shaped the memorandum of the agreement referred to so as to provide that the compensation should not be a part of the profits but equal to a specific portion of the profits. The amount of these profits was not suggested, as witness remembers and believes, but the purport of Mr. Davis' remarks was that he was very kindly disposed towards Mr. Boyle, and was willing to accommodate him by letting him have the use of a certain amount of money, his compensation for which should depend upon Boyle's comparative prosperity in business.

Witness has not seen the memorandum of an agreement above

135 referred to since the interview at his office, to which he has alluded, but he has examined the paper filed as Exhibit to the answer of Mr. Davis in this cause, and thinks that it a substancial and perhaps literal copy of the memorandum as revised by witness.

Complainants reserve objections to the foregoing depositions, especially the conversations between witness and defendants Davis and Boyle, as incompetent and admissible, and not waiving these objections, they waive notice and all formalities, reserving the right to examine the witness hereafter if desired.

PIERCE AND DIX,
For Complainants.

Memphis, March 24, 1877.

Further deponent saith not.

J. W. CLAPP.

Sub. and sworn to before me Ap'l 14, 1877.

E. B. McHENRY, *D. C. and M.*

Order for removal of cause.—E. April 20, '77. *M.* 17, *P.* 623.

On application of complainants, made by petition herein filed,
136 and bond for removal having been given as required by law, and it appearing that this suit is a controversy wholly between citizens of different States and is a proper case for removal to the United States circuit court, in accordance with the prayer of the petition: It is ordered that the prayer for removal be granted, and that the clerk make a full transcript of the record and proceedings in this cause, to be filed in the circuit court of the United States for the western district of Tennessee.

137 STATE OF TENNESSEE,
Shelby County, ss:

I, Edmund A. Cole, clerk and master of the chancery court of Shelby County, do hereby certify that the foregoing 175 pages comprise a full, true, and perfect transcript of all the proceedings had in a certain cause lately pending herein, wherein W. H. Chatfield et als. are complainants, and W. F. Boyle et al. are defendants, as the same appear of record and on file in my office.

In witness whereof I hereunto set my hand and affix the seal of said court, at office, in the city of Memphis, this 19th day of May, A. D. 1877.

[L. S.]

E. A. COLE,
Clerk and Master,
By E. B. McHENRY,
D. C. & M.

138 *Bill of costs.*

CHATFIELD AND WOODS *vs.* W. F. BOYLE ET AL. } No. 2496.

OFFICE OF CHANCERY CLERK,
Memphis, Tenn., May 28th, 1877.

State tax		$5 00
County tax		$2 50
Clerk's fees: E. A. Cole, C. & M.—Filing bill, 25 cts.; aff't, 25 cts.; bonds, $2.25; amended bill, cts; aff't, cts.; bonds, $	2 75	
Cross bill, cts.; aff't, cts; bonds, $; subpœnas to answer, 75 cts.; copies of bill, $12.00; attachments, $; injunctions, $1.00	13 75	
Filing answers, cts.; aff'ts, cts.; notices to counsel, cts.; orders publication, cts.; copies of orders of publication, cts.; proofs of publication, cts.; aff'ts, cts.; filing, cts.; returns, cts.; set on hearing, cts.; summons, cts.; scire facias, cts.; continuances, ; motions, ; interlocutory orders and decrees, 2.00; orders pro confesso, ; entries on rules, 50 cts	2 50	
Interrogatories, ; notices, ; com'ss to take depositions, ; copy of interrogatories, ; subpœna for witnesses, ; taking depositions, $; filing, cts.; postage, cts.; copies of decrees, etc., 1.25; reports stating accounts, etc., $; filing, cts	1 25	
Exceptions to reports, ; demurrers, ; notices, cts.; motions, cts.; judgments, ; exceptions to answers, ; notices, ; rulings, ; motions, ; judgments, ; pleas, ; aff'ts, ; notices, mos. judgments, ; orders adv. sale, ; com. on sale, ; agreements, ; exhibits, cts.; filing papers, cts.; petitions, ; aff'ts, cts.; refunding bonds, ; receiver's bonds, ; replevy bonds, ; guardian bonds, ; reports of receiver, 25; reports of comm'rs, 25	50	
Reports of surveyors, ; appeals, ; appeal bonds, ; procedendo, ; motion, cts.; final judgment, cts.; final decree, ; dismissing bill, ; decree for costs, 25 cts.; bill costs, 50; order for execution, cts.; enrolling fee, $7.00; writs possession	7 75	
Issuing executions, cts.; copying costs, cts.; entering execution, 50 cts	50	
	29 00	

(Since.) Reports com'r, 1.00; rep. of assignee, 25; mos., 1.00; orders, 3.50; entry, 2.25; acc't, 50; aff't, 25; notices, 50; pet. & o., 50; dep., 1.00; filing, 25; copy order, 50; enrolling, 14.75; pet., 50; bond, 1.00; copy costs, 25; com. on fund, $31.75; transcript for, 44.50	110 00	
		139 00

SHERIFF'S FEES.

C. L. Anderson, executing s'p'a's, notices, &c	9 50

FEES.

Protest fees due	3 10
	159 10

Received payment of—

——— ———, *C. & M.*,
——— ———, *D. C. & M.*

139 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States, within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof begun and held for its Nov. term, A. D. 1877, at the United States court-house, in the city of Memphis, in said district, on, to wit, the day of March, A. D. 1878, in the following cause, to wit:

W. H. CHATFIELD ET AL., PLAINTIFF,
vs.
W. F. BOYLE ET ALS., DEFENDANT. } No. 284, Equity.

140 W. H. CHATFIELD ET AL.
vs.
W'M F. BOYLE ET AL.

J. W. Clapp, a witness on behalf of Jefferson Davis, in the above-entitled cause, deposes and says:

That he is a practising attorney in the city of Memphis; senior partner of the firm of Clapp and Menx, and has been engaged in the practice for nearly forty years; that he is acquainted with the defendants, W. F. Boyle and Jefferson Davis, but not with complainants; that some time in May or June (to the best of his recollection) of 1874, the defendants, Davis and Boyle, called at the law-office of witness to get his legal advice and direction as to an arrangement by which it was proposed that Mr. Davis should lend Boyle, or the firm of Boyle and Chapman, of which he was a member, a sum of money. Witness had known Mr. Davis intimately for a great many years, and was frequently
141 consulted by him as to his business affairs.

In the conversation that occurred, it was stated by one or both of said defendants that the object of their visit to witness was to ascertain if an arrangement was practicable by which Mr. Davis could lend his money and receive a compensation for its use out of the profits of the business of Boyle and Chapman without rendering himself liable as a partner. Mr. Boyle stated that he had endeavored to persuade Mr. Davis to take an interest in their business as a partner, but could not

induce him to do so, and Mr. Davis remarked that a partnership interest, however profitable, would not suit his arrangements or engagements at all; but that he was willing to let Mr. Boyle have the use of his money and to take his chances of pay out of the proceeds of the business if this could be legally done without his becoming bound as a part-
142 ner. A paper or memorandum of an agreement looking to such an arrangement as that suggested by Mr. Davis was produced and handed to witness for his inspection.

Having refreshed his recollection as to the doctrine as recognized by the supreme court of Tennessee, by turning to two or three reported cases, to which the attention of Mr. Davis was called, witness stated the principle as announced by the supreme court to be that the fact of partnership was a question of intention, and that an agreement to pay Mr. Davis a specified proportion of the profits of the business of Boyle and Chapman for the use of his money by the firm would not make Mr. Davis a partner of theirs. Out of abundant caution, however, witness shaped the memorandum of the agreement referred to so as to provide that the compensation should not be a part of the profits, but equal to a specific portion of the profits. The amounts of these profits
143 was not suggested, as witness remembers and believes, but the purport of Mr. Davis' remarks was that he was very kindly disposed towards Mr. Boyle, and was willing to accommodate him by letting him have the use of a certain amount of money, his compensation for which should depend upon Boyle's comparative prosperity in business.

Witness has not seen the memorandum of an agreement above referred to since the interview at his office to which he has alluded, but he has examined the paper filed as Exhibit to the answer of Mr. Davis in this cause, and thinks it is a substantial and perhaps a literal copy of the memorandum as revised by witness.

Complainants reserve objections to the foregoing deposition, especially the conversations between witness and defendants, Davis and Boyle, as incompetent and inadmissible, and, not waiving these objections,
144 they waive notice and all formalities, reserving the right to cross-examine the witness hereafter, if desired.

PIERCE AND DIX,
For Complainants.

MEMPHIS, *Mar.* 24, 1877.

Further deponent saith not.

J. W. CLAPP.

Sub. and sworn to before me April 14, 1877.

E. B. McHENRY,
D. C. and M.

(Endorsed:) No. 384, eq. Circuit court of the United States, western district of Tennessee. W. H. Chatfield et al. vs. Wm. F. Boyle et al. Deposition of J. W. Clapp. Filed June 14th, 1877. H. E. Andrews, clerk, by L. H. Pillsbury, D. C.

145 WM. H. CHATFIELD ET AL. }
vs.
WM. F. DOYLE, A. J. HAYES, ET AL. }.

Deposition of Jefferson Davis, taken by consent June 12, 1877, to be read as evidence in the above-stated cause, which was originally a bill filed in the chancery court of Shelby County, Tenn., and which has been transferred and is now pending in the circuit court of the United States for the western district of Tennessee, on the equity side of the docket.

Questions by complainant:

1. Int. Are you a party defendant to the above-stated cause?

Ans. I am.

2. Int. State the facts connected with the moneyed transactions between yourself and the defendant Boyle, or Boyle and Chapman, or Boyle and Co., referred to in the bill in this cause, and particularly as to what occurred in connection with the paper filed as Exhibit
146 No. 1 to your answer in this cause.

Ans. I have refreshed my memory by carefully reading the answer made by me to the bill in this cause, and adopt the same as my answer to this question in the aggregate and in the detail. In connection with the paper filed as Exhibit No. 1, I state that after various propositions by W. F. Boyle to induce me to become a partner in his business had been decidedly rejected, I agreed to let him have the use of my money for a consideration, if it could be done so as to secure me from any responsibility for his business transactions, or from liability to loss of the money so loaned, and he and I prepared a memorandum of an agreement to that effect. With this memorandum we, Boyle and myself, repaired to the law office of Clapp and Menx, and submitted the paper to J. W. Clapp, who read it, referred to the authorities prevailing in the State of Tenn. in regard to part-
147 nerships, made some interlineations and alterations in the paper so as to relieve it from all doubt as to its fitness for the purpose delared, that of a loan of capital merely, and this paper thus modified, being accepted by both Boyle and myself as our agreement, was handed to the former to be copied in due form and neatness. Being engaged in preparations for departure from the country, I failed to get the paper after it was copied, and never saw it until after this suit was instituted; therefore of course, never signed it. The original draft of an agreement was not signed, and I have had no chance to compare it with the Exhibit No. 1, it having been left in the hands of Mr. Boyle, who has not, when requested by me to produce it, been, as he states, able to find out.

3. Int. State if there was any agreement or understanding be-
148 tween yourself and said Boyle, or any one else, restricting your right for any specific time to withdraw the money or require the return of the sum you loaned the firm of Boyle and Chapman.

Answer. As appears in the paper Exhibit No. 1 the p'rs, Boyle and Chapman, had assurance that ten days' notice should be given before drawing upon them for a sum not greater than one of their notes, viz. $5,000, but it is true that subsequently, wanting the whole sum loaned to them, it was applied for, and no objection on the ground of its having been permanently invested or loaned for their use until withdrawn by common consent; but it was stated that they expected to obtain the money from a person of New York City, and it would then be paid; the

application for payment was renewed several times, and other prospects of getting the money without embarrassing their operations were held out to me as motive for delay. At length I required, in default
149 of prompt payment, that satisfactory security should be given, and a deed of trust was made on the machinery, &c., &c., by Boyle and Co. to secure the loan made by me to Boyle and Chapman, and repayment of which had been in vain sought for from Boyle and Chapman, and afterward from Boyle and Co. I had no knowledge of the existence of a prior deed of trust binding the same property, but supposed it to be unincumbered when the deed of trust which is filed as Exhibit No. 2 in my answer to this case was given to secure the loan made by me.

(Complainants. by their solicitors, except generally to all the above testimony, upon the ground that it is irrelevant and incompetent evidence, and they except to all such facts as are irrelevant and incompetent. They except to all conversations between the witness and Boyle or Boyle and Co., and Boyle and Chapman, and all statements as to what the parties intended, with these exceptions.)

150 Complainants waive cross-examination and oath of witness.

PIERCE AND DIX,
Sol's for Complainants.

And further deponent saith not.

JEFFERSON DAVIS.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. W. H. Chatfield et al. vs. W. F. Boyle et al. Deposition of Jefferson Davis. Filed June 14th, 1877. H. E. Andrews, clerk; L. H. Pillsbury, D. C.

151 Circuit court of U. S., dist. of West Tenn.

CHATFIELD AND WOODS *vs.* W. F. BOYLE ET AL. } 284. Eq. D.

To the Hon. John Baxter, judge, &c.:

Your petitioners, H. B. Graham and Bro., would respectfully show unto your honor that they are residents and citizens of State of Missouri, and that all the defendants are residents and citizens of State of Tenn. and dist. of West. Tenn. That they are just creditors of Boyle and Co., and claim to be of all the defendants, in the following amounts, evidenced as follows:

$132.45.] ST. LOUIS, *Aug.* 3, 1876.

Thirty days after sight pay to the order of H. B. Graham and Bro one hundred and thirty-two & $\frac{4}{100}$ dollars, with exchange on New York or St. Louis.

H. B. GRAHAM & BROS.

To Mess. BOYLE & CO.

152 Accepted Aug. 5, '76, by—

BOYLE AND CO.

Also,

$173.24.] ST. LOUIS, *June* 20, 1876.

Sixty days after date pay to the order of H. B. Graham and Bro's

one hundred and seventy-three and $\frac{26}{100}$ dollars, with exchange on N. York or St. Louis.

H. B. GRAHAM AND BROS.

To Messrs. BOYLE and Co., *Memphis, Tenn.*

Accepted Boyle and Co., and protested for non-payment Aug. 22, '76. Protest fees $2.80, back of which here shown by copy, and the originals of which will be filed at the triage if required.

On which has been paid by Omberg, the assignee, the following amounts:

Feb. 6, 1877, $46.27.
" 5, 1878, $15.56.

Leaving bal. due H. B. Graham & Bro., of $256.58, and interest due thereon; all of which they pray may be declared and paid to them,
153 as all the balance is justly due and unpaid to them.

GEO. GILLHAM,
Sol. for Com.

(Endorsed:) 284. United States circuit court, western district of Tennessee. Chatfield and Woods vs. W. F. Boyle et als. Claim of Graham. Filed Feb'y 16, 1878. H. E. Andrews, clerk.

154 Circuit court of U. S., dist. of West. Tennessee.

CHATFIELD AND WOODS ET ALS. *vs.* W. F. BOYLE ET ALS. } No. 284. Eq. D.

To the Hon. John Baxter, judge, &c.:

Your petitioners, S. A. Tower, the member composing firm of S. A. Tower and Co., and doing business under that name and style, would show that he is a resident and citizen of the State of New York, and that defendants are residents and citizens of State of Tennessee, and dist. of West. Tenn.; that the firm of S. A. Tower and Co. are just creditors of the Boyle and Co., and claim to be of all the defendants hereto, in the amounts as follows, by note here shown to the court by copy:

$630.87.] MEMPHIS, TENN., *April 1st*, 1876.

Four months after date we promise to pay to the order of S. A. Tower and Co. six hundred and thirty and $\frac{87}{100}$ dollars, at Fourth National Bank of Memphis, value received.

BOYLE AND CO.

155 August 4th, 1876. Protest. Fees $3.10.

The original of which will be filed on or before the hearing if required.

Also by the following account:

Ap'l 14, '76.	To m'dse	$6 25
May 12,	" "	81 56
" 24,	Cash	169 00
	Total of ac.	$256 81

Upon which several amounts there has been paid by the assignee Omberg, Feb. 6, '77, $133.15; Feb. 5, '78, $44.38, leaving balance due

Tower & Co. of $713.25 and interest due thereon; all of which they ask be decreed and paid to them.

GEO. GILLHAM,
Sol. for Petitioner.

(Endorsed): 384. U. S. circuit court, western district of Tennessee. Chatfield and Woods vs. W. F. Boyle et als. Claim of Tower and Co. Filed Feb'y 16, 1878. H. E. Andrews, clerk.

156 United States circuit court at Memphis.

CHATFIELD AND WOODS
vs.
W. F. BOYLE ET AL.

The deposition of W. F. Boyle, taken by complainants by consent, the 18th day of February, 1878.

1. Qu. Are you the W. F. Boyle made defendant in said suit?
Ans. I am.

2. Qu. When the firm of Boyle and Chapman formed, when dissolved, and give name of its successor, and state how long the succeeding firm continued in business, and how it was dissolved.

Ans. The firm of Boyle and Chapman was formed about the 15th day of June, 1870, and continued business until the 15th day of Feb'y, 1876, when it dissolved and was succeeded by Boyle and Company, which firm continued business until the 19th day of Nov., 1876, when it made an assignment to J. A. Omberg.

3. Qu. Please state how much the firm of Boyle and Company
157 at the time of its assignment to J. A. Omberg was indebted, respectively, to the following named firms, and state the nature of said claims, that is, whether due by notes or open account, or otherwise: Chatfield and Woods, The Powers Paper Company, Snider and Hoole, Louis Snider's Sons, H. B. Graham and Bro., and S. A. Tower and Co., and give the residence and occupation at that time of said parties.

Ans. Chatfield and Woods, Paper House, Cin., Ohio. Open a/c, 231.01; notes, 2.570.32—$2,801.33.

Powers Paper Company. Paper and stationery. Springfield, Mass. Notes, 2,594.00.

Snider and Hoole. Binder's material. Cin., Ohio. Notes, 1,229.51.

Louis Snider's Sons., Paper House, Cin., Ohio. Notes, 894.92; open a/c, 208.84—$1,103.66.

H. B. Graham & Bro., Paper House, St. Louis, Mo. Open a/c, 311.21.

S. A. Tower and Co. Open a/c, 256.81; note, 630.87—887.68.

158 20% of above claims have been paid by J. A. Omberg, assignee.

4. Qu. How much of said claims accrued prior to the retirement of Mr. Chapman and the formation of the firm of Boyle and Company?

Ans. It is impossible to answer definitely. As near as I can tell, Boyle and Chapman's indebtedness of the amount due by Boyle and Company, at the time of the assignment, was to—

Chatfield and Woods, about		$2,330 97
Powers Paper Co	"	2,259 59
S. A. Tower and Co	"	630 87
Lewis Snider's Sons	"	894 92
Snider and Hoole	"	800 00

5. Qu. In what business were Boyle and Chapman, and Boyle and Company engaged?

Ans. They were engaged in the stationery, miscellaneous book printing and binding business, at Memphis, Tenn., both wholesale and retail.

159 6. Qu. Describe the ledgers of the late firms of Boyle and Chapman, and Boyle and Co., showing the account of those firms with the defendant, Jefferson Davis?

Ans. They are ledgers A, and # 2.

7. Qu. Were statements of his accounts, as shown by the books, rendered to him from time to time covering all the time said firms were in existence?

Ans. Yes, sir.

8. Qu. Please attach to your deposition a copy of defendant Davis' account with Boyle and Chapman, and Boyle and Company, as shown by the ledgers above described, and make same a part hereof.

Ans. I have made a copy of the said account as shown by the ledger above described, and marked the same as Exhibit A, to my deposi-
160 tion and to be filed as a part of the same. Having been requested, for convenience sake, not to fasten the statement to my deposition, I have not attached it hereto, but signed my name to it.

9. Qu. What do "P and L" on the credit side of said account mean?

Ans. Profit and loss.

Reserving all material exceptions as to foregoing questions and answers, the defendant, Jefferson Davis, cross-examines as follows:

X Int. 1. In answer to 7th direct question, you state that statements of his accounts, as shown by the books of B. and Chapman, were rendered to Mr. Davis from time to time. Please state if such statements were rendered to Mr. Davis in person; and if he was absent from the city, state to what extent, so far as you know, such absences occurred.

161 Ans. The statements were rendered to Mr. Davis, Mrs. Davis, and Mr. Hayes Mr. Davis received but few, as he was absent a great deal and for long periods.

2. X Int. Did Mr. Davis ever claim the right to inspect the books of Boyle and Chapman or Boyle and Co., or did he in fact ever do so, or have any knowledge as to their contents, so far as you know, except from the statements referred to above?

Ans. He did not claim the right or have any knowledge of their contents except from the statements referred to.

3. X Int. Have you read or heard read the answers of Jefferson Davis and yourself filed in this cause, and examined the copy of a deed of trust made by Boyle and Co. March 8, 1876, and filed as an exhibit to the answer of Mr. Davis? If so, state whether said answers and exhibit give a correct statement of the transactions between Boyle and Chapman and Boyle and Co. and Mr. Davis.

162 Ans. I have heard read the answer of Mr. Davis, and have read my own, and have examined the copy of the deed of trust. Said answer and exhibit give a correct statement of the transactions of Boyle and Chapman, Boyle and Company, and Mr. Davis.

Re-examined:

1. Qu. Can you give dates when statements were rendered to Mr. Davis, as stated above?

Ans. I could give two or three dates, but no more. Aug. 1, '75, and

July 11, '76, statements were rendered, but the August one I don't know to whom July statement was to Mr. Hayes.

Re-examined:

1. X Int. What was the character of the statements referred to in your foregoing answers; that is, were they complete or partial and fragmentary?

Ans. I think the statements referred to were complete as to the amounts paid. I am not confident about the credits being given.

And further deponent saith not.

W. F. BOYLE.

163 Oath waived.

PIERCE AND DIX,
For Compl'ts.
CLAPP AND MENX,
For Davis.

(Endorsed:) No. 284, equity. Circuit court of the United States, western district of Tennessee. Chatfield and Woods, Boyle and Co. Deposition of W. F. Boyle. Filed Feb. 20th, 1878. H. E. Andrews, clerk, by L. H. Pillsbury, D. C.

164 *Hon'l Jefferson Davis in a/c with Boyle and Chapman and Boyle and Company.*

1873.				
Aug.	30.	To cash		1,264 64
Sep.	8.	" "		1 40
"	9.	" "		1 15
"	11.	" "		33 75
"	12.	" "		3 00
Oct.	18.	" "		1,300 00
"	29.	" "		40
Dec.	4.	" "		50 00
"	5.	" "		200 00
"	6.	" "		85 00
"	15.	" "		205 04
"	"	" "		379 00
"	16.	" "		100 00
Oct.	18.	" "		104 00
Nov.	2.	" "		200 00
"	19.	" "		181 75
Dec.	18.	" "		160 00
"	26.	" "		19,609 60
"	29.	" "		50 00
"	31.	" "		10 75
1874.				
Jan'y	5.	" "		100 00
"	7.	" "		69 08
"	"	" "		151 18
"	12.	" "		100 00
"	20.	" "		50 00
Feb.	7.	" "		100 00
"	11.	" "		54 50

165 Continued.

Feb'y	19.	To cash		50 00
"	20.	" "		100 00
"	23.	" "		8 30
"	26.	" "		10 00
M'ch	4.	" "		100 00
"	13.	" "		100 00
"	18.	" "		22 50
"	19.	" "		10 75
		Forward		24,965 79
		Am't bro't forward		24,965 79

1874.

M'ch	21.	To cash		50 00
"	24.	" "		10 00
"	28.	" "		10 00
"	31.	" "		50 00
Ap'l	1.	" "		100 00
"	2.	" "		102 05
"	8.	" "		100 00
"	20.	" "		57 32
"	29.	" "		20 00
May	2.	" "		100 00
"	6.	" "		150 00
"	15.	" "		95 00
"	18.	" "		50 00
"	25.	" "		5 95
June	1.	" "		100 00
"	3.	" "		50 00
"	5.	" "		6 50
"	6.	" "		76 28
"	12.	" "		60 00
"	15.	" "		51 67

166 Continued.

June	17.	To cash		50 00
"	24.	" "		20 00
"	25, 26.	" "		45 00
"	29, 30.	" "		48 28
July	1.	" "		187 50
"	"	" notes		25,000 00
"	"	" balance ledger 82		5,589 42
				$57,140 76

CR.

1872.

July	22.	By cash		2,500 00
Aug.	6.	" "		200 00
"	8.	" "		515 00
"	28.	" "		83 00
Sept.	19.	" "		983 59
		Amount forward		4,281 59

Continued.

1872.

		By amount forward		4,281 59
Oct.	26.	" cash		46 50
Nov.	4.	" "		10 00
"	13.	" "		7 89
Oct.	26.	" "		1,000 00
Nov.	19.	" "		125 00
	25.	" "		107 94
Dec.	2.	" "		14 08
Jan.	27.	" "		31 50
July	25.	" "		207 00
Feb.	28	" "		400 00
M'ch	1.	" "		200 00
	3.	By cash		650 00
167 M'ch	8.	" "		275 00
	19.	" "		800 00
	22.	By cash		1,000 00
Ap'l	19.	" "		550 00
May	19.	" "		300 00
Dec.	26.	" "		15,485 10
Jan'y	30.	" "		10 00
July	1.	" "		500 00
"	"	" "		2,500 00
"	"	" "		1,065 75
"	"	" "		22,433 70
"	"	" "		5,139 71
				$57,140 76

Continued.

1874.
July 1. CR.

			By balance from ledger A, see other page (2)	5,589 42	
"	31.	"	cash	20 00	
Oct.	28.	"	"	67 68	
1875.					
Feb'y	22.	"	"	200 00	
M'ch	9.	"	"	23 20	
"	19.	"	"	87 00	
July	1.	"	P. & L	3,973 97	
Aug.	30.	"	cash	904 12	
		"	"	2,583 44	
			Forward	13,448 83	

Continued.

1875.

			By amount bro't forward	13,448 83	
	Sep.	24.	By cash	700 00	
168	Dec.	15.	" "	5 00	
1876.					
Jan'y	26.	By cash		500 00	
Feb'y	15.	"	"	150 00	
M'ch	21.	"	"	75 00	
Ap'l	18.	"	"	75 00	
May	30.	"	"	1 00	
1876.					
July	1.	"	P. & L	2,370 93	
"	"	"	"	33 33	
"	"	"	interest	497 08	
"	"	"	"	192 43	
"	11.	"	cash	350 00	
					18,398 60
Aug. 30,'75.		"	*by* interest this date		736 45
			Footings corrected, page 11		19,135 05

DR.

1874.

July	1.	To cash		146 75	
"	2.	"	"	18 10	
"	7.	"	"	28 38	
"	10.	"	"	51 00	
"	13.	"	"	37 39	
"	15.	"	"	50 00	
"	27.	"	"	30 00	
Aug.	1.	"	"	100 00	
"	5.	"	"	33 50	
"	10.	"	"	3 50	
"	11, 12.	"	"	75 00	
"	19.	"	"	150 00	
"	31.	"	"	50 00	
"	"	"	"	3 20	
	Sep.	2.	To cash	100 00	
169	Sept.	5.	" "	18 60	
	"	12.	" "	161 00	
"	22.	To cash		35 50	
"	25.	"	"	44 04	
"	30.	"	"	11 00	
			Amounts forward	1,146 96	18,398 60

Continued.

1874.

			Amounts bro't forward	1,146 96	18,398 60
Oct.	2.	To cash		100 00	
"	3.	"	"	18 75	
"	7.	"	"	100 00	

1874.					
Oct.	9, 12.	To cash		62 00	
"	13.	" "		11 40	
"	20.	" "		100 00	
"	21.	" "		50	
Nov.	3.	" "		100 00	
"	4.	" "		74 77	
"	11.	" "		6 75	
"	13.	" "		50 00	
"	24.	" "		50 00	
Dec.	1.	" "		46 04	
"	3.	" "		2 00	
"	5.	" "		106 25	
"	8.	" "		1 00	
"	14.	" "		100 00	
"	16.	" "		25	
"	24.	" "		20 00	
"	"	" "		2 50	
"		29. To cash		20 00	
170	1875.				
	Jan.	2. " "		100 00	
"	7.	To cash		48 50	
"	13.	" "		50 00	
"	16.	" "		25 00	
"	30.	" "		1 50	
Feb.	1, 2.	" "		130 75	
"	6.	" "		126 86	
"	8, 9.	" "		174 00	
"	12.	" "		16 00	
"	27.	" "		15 00	
M'ch	1.	" "		21 70	
"	3.	" "		1 50	
"	4.	" "		100 00	
"	6.	" "		2 00	
	Amounts forward			2,931 98	18,398 60

Continued.

1874.					
	Amounts bro. for			2,931 98	18,398 60
M'ch	8.	To cash		25 00	
"	9.	" "		121 00	
"	10.	" "		40 00	
"	12.	" "		53 95	
"	15.	" "		100 00	
"	17.	" "		87 00	
"	25.	" "		20 00	
April	2.	" "		71 50	
"	7.	" "		50 50	
"	9.	" "		100 00	
"	13.	" "		178 15	
"		16. To cash		85	
171	Ap'l	19. " "		37 00	
"		21. " "		13 00	
"	26.	To cash		21 84	
"	29.	" "		12 50	
May	3.	" "		27 50	
"	4.	" "		100 00	
"	7.	" "		5 00	
"	8.	" "		125 50	
"	10.	" "		3 50	
"	14.	" "		131 50	
"	31.	" "		80 00	
June	1.	" "		60 55	
"	3.	" "		84 25	
"	5.	" "		72 17	
"	7.	" "		100 00	
"	8.	" "		33 50	
"	9.	" "		100 00	
"	10.	" "		19 50	
July	1.	" "		63 80	
	2.	" "		124 20	
	3.	" "		43 87	

1874.					
July	9.	To cash			100 00
	12.	" "	100 00		
		Amounts forward	5,239 11	18,398 60	

Continued.

1875.					
		Amounts bro't forward	5,239 11	18,398 60	
July	17.	To cash	18 75		
"	19.	" "	15 50		
	July 19.	To cash	25		
172	July 21.	" "	12 00		
	" 24.	" "	1 00		
"	27.	To cash	5 85		
"	29.	" "	30 00		
Aug.	3.	" "	100 00		
"	4.	" "	35 22		
"	7.	" "	28 90		
"	"	" "	50		
"	9.	" "	131 10		
"	10.	" "	82 50		
"	11.	" "	1 00		
"	13.	" "	22 25		
"	17.	" "	100 00		
Sep.	1.	" "	40 45		
"	2.	" "	62 09		
"	4.	" "	100 00		
"	6.	" "	60 00		
"	7.	" "	37 95		
"	8.	" "	50		
"	9.	" "	100 00		
"	10.	" "	20 00		
"	14.	" "	13 70		
"	15.	" "	100 00		
"	30.	" "	32 00		
Oct.	4		1 50		
"	5		569 79		
"	"		14 00		
"	6		11 20		
	Oct. 7		500 00		
173	Oct. 8.	To cash	100 00		
	" "	" "	21 65		
"	12.	To cash	102 05		
		Amount forward	7,711 01	18,398 60	

Continued.

		Amounts bro't forward	7,711 01		
1875.					
Oct.	13.	To cash	91 06		
"	14.	" "	5 65		
"	15,16.	" "	45 00		
"	19.	" "	56 45		
"	20.	" "	41 00		
"	21.	" "	100 00		
"	28.	" "	12 80		
Nov.	1.	" "	100 00		
"	2.	" "	12 18		
"	3.	" "	47 26		
"	8.	" "	36 27		
"	10.	" "	53 10		
"	11.	" "	19 60		
"	12.	" "	19 55		
"	13.	" "	4 00		
"	19.	" "	2 62		
"	20.	" "	31 04		
"	24.	" "	255 00		
"	27.	" "	1 00		
Dec.	4.		45 65		

1875.							
Dec.	6.					100	00
"	11.					52	70
	Dec.	14.				149	75
75	Dec.	18.	To cash				75
	"	21.	"	"		58	40
"	22.	To cash				33	78
"	23.	"	"			50	00
"	24.	"	"			150	00
"	27.	"	"				95
"	29.	"	"			1	00
"	30.	"	"			13	00
"	31.	"	"			163	25
1876.							
Jan'y	1.	"	"			225	00
"	4.	"	"			7	25
"	5.	"	"			37	92
	Amounts forward					9,733	99
							18,398 60

Continued.

	Amounts bro't forward					9,733	99
							18,398 60
1876.							
Jan'y	6.	To cash				15	31
"	7.	"	"			110	54
"	8.	"	"			369	65
"	11.	"	"			2	00
"	12.	"	"			10	00
"	15.	"	"			300	00
"	17.	"	"			37	50
"	18.	"	"			557	66
"	19.	"	"			14	50
"	"	"	"				27
"	20.	"	"			34	98
"	"	"	"			1	00
22.	"	"	"			300	00
	Jan'y	26.	To cash			100	00
175	Jan'y	26.	"	"		500	00
	"	"	"	"		4	00
"		To cash				406	00
"		"	"			20	00
Feb'y	2.	"	"			167	00
"	3.	"	"			400	00
"	5.	"	"			100	00
"	8.	"	"			225	00
"	9.	"	"			55	25
"	"	"	"			62	52
"	10.	"	"			150	00
"	12.	"	"			150	00
"	15.	"	"			15	75
"	16.	"	"			1	00
"	17.	"	"			125	00
"	19.	"	"			150	00
"	21.	"	"			65	50
"	22.	"	"			50	00
"	23.	"	"			186	00
"	24.	"	"				25
"	26.	"	"			100	00
	Amounts forward					14,520	66
							18,398 60

Continued.

	Amounts bro't forward					14,520	66
							18,398 60
1876.							
M'ch	1.	To cash				116	00
"	2.	"	"			30	00
"	3.	"	"			85	21
"	4.	"	"			24	10
	M'ch	6.	To cash			100	00
176	M'ch	7.	"	"		45	83

1876.					
M'ch	8.	To cash		6 40	
"	9.	To cash		203 75	
"	11.	" "		25 00	
"	13.	" "		50 00	
"	15.	" "		11 20	
"	17.	" "		18 95	
"	21.	" "		40 00	
"	24.	" "		26 00	
"	25.	" "		25 00	
"	29.	" "		17 25	
Ap'l	1.	" "		301 91	
"	4.	" "		22 43	
"	5.	" "		14 00	
"	12.	" "		166 66	
"	14.	" "		100 00	
"	15.	" "		25 00	
"	17.	" "		50	
"	26.	" "		12 50	
"	27.	" "		118 00	
May	1.	" "		103 25	
"	6.	" "		125 00	
"	9.	" "		103 92	
"	12.	" "		10 00	
"	15.	" "		17 00	
"	17, 18.	" "		76 35	
"	26.	" "		1 00	
"	30.	" "		39 45	
	June	2. To cash		225 00	
177	June	10. To cash		15 00	
	Amounts forward			16,822 32	18,398 60

Continued.

	Amounts bro't forward			16,822 32	19,135 05
1876.					
June	14.	To cash		36 75	
"	21.	" "		10 00	
"	26.	" "		83 33	
"	27.	" "		35 00	
July	1.	" "		180 00	
"	3.	" "		4 00	
"	5.	" "		11 40	
"	10.	" "		91 25	
"	"	" "		30 00	
"	12.	" "		83 33	
"	27.	" "		15 00	
Ang.	1.	" "		52 00	
"	2.	" "		110 00	
"	8.	" "		27 35	
"	12.	" "		17 50	
"	14.	" "		75 00	
"	19.	" "		50 00	
Sep.	2.	" "		21 00	
"	5.	" "		49 00	
"	7.	" "		10 00	
"	12.	" "		37 39	
"	29.	" "		5 05	
Oct.	3.			30 00	
"	5.			40 00	
	Oct.	9.		709 97	
178	Nov.	2. To cash		35 00	
	"	14. " "		3 25	18,671 89
"	" '76.	Balance due Mr. Davis open a/c			$463 16

Due Mr. Davis by note:

Oct. 9, '76.	Note	$176 74
July 1, '74.	5 notes	$25,000 00

E. & O. E.
W. F. BOYLE.

(Endorsed:) No. 284. Equity. Circuit court of the United States, western district of Tennessee. Chatfield and Woods vs. Boyle, et als. Exhibit A to Boyle's deposition. Filed Feb. 20th, 1878. H. E. Andrews, clerk, by L. H. Pillsbury, D. C. Exhibit A to deposition of W. F. Boyle, W. F. Boyle.

179 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States, within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D. 1877, at the United States court-house, in the city of Memphis, in said district, on, to wit, the 21 day of February, A. D. 1878, in the following cause, to wit:

WM. H. CHATFIELD ET AL., PLAINTIFF,
vs.
W. F. BOYLE ET AL., DEFENDANT. } No. 284. Equity.

Upon motion of the complainants, made at the hearing of the cause, leave is given them to amend their bill of complaint filed herein by striking out and thereby withdrawing all statements and allegations imputing fraud or bad faith to the defendants, Boyle and Davis, or either of them, in or about the execution and delivery of the deed of trust to said J. A. Hays, jr., as trustee for said Davis, and all
180 statements and allegations as to the statements made by said Boyle to the agent of said complainants, touching the relation of said Davis to the said firm of Boyle and Chapman, and the subsequent firm of Boyle and Co.; also all statements and allegations as to the said Boyle being the financial agent and factor of the said Davis, and as to the said Davis being bound or affected by any representations of said Boyle.

It is further ordered, all parties assenting thereto, that the hearing of this cause shall be proceeded with, notwithstanding this amendment. And it is further ordered that complainants' amended bill may be filed of this date, and the answers of defendants filed to the original bill may, if defendants so elect, be considered as answers to the amended bill hereafter to be filed.

To all of which amendments and withdrawals and orders, defendant, Jefferson Davis, excepted at the time.

181 CHATFIELD AND WOODS & ALS.
vs.
W. J. BOYLE & ALS.

The defendant, W. F. Boyle, by leave of the court first had and obtained, files this as a plea to complainant's bill, and says that since the last continuance of this cause, to wit, on the 29th day of January, 1878, there was granted to him under the order of the district court of the United States for the western district of Tennessee, a discharge in bankruptcy, discharging him from all liabilities incurred by him (except those of a fiduciary character) prior to the 24th of March, 1877, this being the day of the filing of his petition in bankruptcy; said discharge is in words and figures following, to wit:

1467.] TUESDAY, *January 29th*, 1878.

Whereas W. F. Boyle, of Shelby County, Tennessee, has been duly adjudged a bankrupt under the act of Congress establishing a
182 uniform system of bankruptcy throughout the United States, and appears to have conformed to all the requirements of law in that behalf, it is therefore ordered by the court that said W. F. Boyle be forever discharged from all debts and claims which by said act are made provable against his estate, and which existed on the twenty-fourth day of March, 1877, on which day the petition for adjudication was filed by him, excepting such debts, if any, as are by said act excepted from the operation of a discharge in bankruptcy.

The defendant states that he is advised that the effect of this discharge is to relieve him from all liability to said complainants set up by them in this bill, the same having been in existence at the time of filing said petition, and defendant pleads said discharge as a bar to all recovery in this cause.

W. F. BOYLE.

183 Subscribed and sworn to before me this February 22d, 1878, by the above-named affiant, W. F. Boyle.

L. H. PILLSBURY,
D. C. and U. S. Com'r.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. Chatfield et al. vs. W. F. Boyle & Co. Affidavit of defendant Boyle. Filed Feb. 22d, 1878. H. E. Andrews, clerk. By L. H. Pillsbury, D. C.

184 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D 1877, at the United States court-house in the city of Memphis, in said district, on, to wit, the 22d day of February, A. D. 1878, in the following cause, to wit:

Order pro confesso.

W. H. CHATFIELD ET AL., PLAINTIFF,
vs.
W. F. BOYLE ET AL., DEFENDANT. } No. 284. Equity.

It appearing to the court that the defendants, J. T. Pettit, J. A. Hays, jr., and John C. Cooper were each and all duly served with process commanding them to appear and answer complainants' bill, and that they have failed to appear and make any defence thereto, it is, on motion of complainants, ordered that the allegations of the bill be taken for confessed as to the above-named defendants, and that this cause be proceeded in ex parte as to them.

185 This indenture, made and entered into this 27th day of June, 1873, by and between Wm. F. Boyle and L. H. Chapman, constituting the firm of Boyle and Chapman, of the first part, and James T.

Pettit of the second part, and John C. Cooper of the third part, all of the county of Shelby and State of Tennessee, witnesseth:

That whereas the said James T. Pettit is the accommodation endorser of said Boyle and Chapman of the following notes made by them at Memphis, Tennessee, to wit: One note for one thousand dollars, due 23d day of July, 1873; one note for one thousand dollars, due 25th day of August, 1873; one note for twenty-five hundred dollars, due 24th day of August, 1873; one note for two thousand dollars, due 17 day of September, 1873; one note for fifteen hundred dollars, due 10th day of October, 1873; one note for one thousand dollars, due day of January, 1873, and held by estate of Jas. Philon; and whereas the said Boyle and Chapman have this day solicited, and contemporaneously with
186 this instrument have secured, the accommodation endorsement of J. T. Pettit of t'o notes made by them this day, for twenty-five hundred dollars each, and due, one on the 18th of November, 1873, and the other on the 28th of November, 1873; and whereas the last endorsements were made on the promise of said Boyle and Chapman to give a trust deed to secure said Pettit against all loss by reason of said last two endorsements and of the other heretofore named, as aforesaid, and of any endorsements that said Pettit may hereafter make in removing said paper or any part thereof:

Now, therefore, in consideration of these premises, the said W. F. Boyle and L. H. Chapman, constituting the firm of Boyle and Chapman, do hereby bargain, sell, and convey to said party of the third part, his assigns, &c., the following personal property, to wit, the boiler and engine, machinery, and belting of every kind, type, cases, presses,
187 and all other non-consumable property now used in and connected with the printing office and bindery now contained in the store or building on Main street, in Memphis, and occupied by said Boyle and Chapman as a book and stationery store, printing office, and bindery, and all the additions of like property that may be made by Boyle and Chapman at any time before the foreclosure of this deed, and in addition the said Boyle and Chapman convey for the same consideration their counters, shelves, and other fixtures used at said place of business by them; now, should said Boyle and Chapman pay off and discharge *and discharge* the liabilities herein mentioned at the maturity of each and every one, or any removeall of the same, that said Pettit may consent to make for them, then this deed shall be satisfied and released, but should they fail to pay said paper, or any part thereof, or any part
188 of the removal of the same, if any such, should be made promptly at the maturity of any part thereof, then all the paper secured by this trust deed, or between the parties to this instrument, their representatives, or assigns, whether mature or not, shall be for the purpose of this trust considered as matured and entitled to a pro rata appropriation of the moneys arising from the sale of the said trust property, as hereafter provided. On the failure of the said maker to pay in toto any piece of said paper heretofore set out, at its maturity, then, on the written demand of said Pettit, the said Pettie, the said trustee, or his successor in office, shall take immediate possession of the said property included herein after giving thirty days' notice by publication in som newspaper published in Memphis of the time, place, and terms of sale, shall, at the time and place so designated, proceed to sell said
189 property, or as much thereof as may be necessary, to the highest and best bidder for cash; the proceeds of said sale the trustee shall apply to the expenses of the execution of this trust, and, secondly, to a payment pro rat. of all the paper described in this instrument, and

if there shall be any balance left after the discharging of said notes, then it shall be paid to Boyle and Chapman. Should the said Pettit at any time before foreclosure of this deed desire to substitute a new trustee in the room and stead of said John C. Cooper, he may do so by notifying, in writing, said Boyle and Chapman that he has nominated a new trustee, giving his name, and thereupon the said new appointee shall take upon himself the execution of the trusts herein impressed, and to this end he shall be clothed with all the power herein conferred upon the said Cooper. The parties of the first part and second part
190 hereby release said Cooper from making the oath and giving the bond as trustee.

In witness whereof the' hereunto set their hand and seals this 27th of June, 1873.

W. F. BOYLE. [SEAL.]
L. H. CHAPMAN. [SEAL.]
J. T. PETTIT. [SEAL.]

STATE OF TENNESSEE,
Shelby County;

Personally appeared before me, J. E. Lewis, deputy clerk of the county court of said county, W. F. Boyle and L. H. Chapman, the bargainors to the foregoing and hereto attached trust deed, with whom I am personally acquainted, and who acknowledged that they executed the same for the purposes therein contained.

Witness my hand at office this 28th day of June, A. D. 1873.

J. E. LEWIS,
Deputy Clerk.

STATE OF TENNESSEE,
Shelby County:

The foregoing instrument with clerk's certificate as filed in my
191 office for registration on the 28th day of June, 1873, at 11 o'clock a. m., and noted in the note book No. 8, page 6, and was recorded on the 30th day of June, 1873.

JOHN BROWN,
Register.

(Endorsed:) Boyle and Chapman to John C. Cooper. Trust deed.

STATE OF TENNESSEE,
Shelby County:

I, H. W. Griebel, register of said county, hereby certify the enclosed 5 pages to be a full, true, and perfect copy from the records of my office, of a trust deed from Boyle and Chapman to Jno. C. Cooper, tr., of record in book No. 6, page 36.

Witness my official signature and seal at office this 23d day of Feb'y, 1878.

H. W. GRIEBEL,
Register.

For PIERCE and DIX.
Fee, $1.75.

192 (Indorsed:) U. S. circuit court. No. 284. Equity. W. H. Chatfield et al. vs. W. F. Boyle et al. Certified copy of trust-deed to J. C. Cooper. Filed Feb. 23, 1878. H. G. Andrews, clerk, by L. H. Pillsbury, D. C.

It is agreed that the certificate of the county register to the within copy of trust-deed from Boyle and Chapman to John C. Cooper, trustee, is sufficient, and that no other certificate or authentication shall be necessary to entitle this copy to be filed as evidence in the cause.

Memphis, Tenn., Feb. 23d, 1878.

CLAPP AND MEUX,
For Jefferson Davis.
PIERCE AND DIX,
For Complainants.

193 In the circuit court of the United States, sixth judicial circuit, western district of Tennessee.

W. H. CHATFIELD ET ALS.
vs.
W. F. BOYLE ET ALS.

To the honorable judges of the United States circuit court for the sixth judicial circuit, western district of Tennessee:

Chatfield and Woods, the complainants who filed their original bill herein, on their own behalf and on behalf of all creditors of Boyle and Co. who should make themselves parties hereto, and all such parties as have made themselves complainants herein, to wit, the Powers Paper Company, Edwin Hoole, surviving partner of Snider and Hoole, Louis Snider's Sons H. B. Graham & Bro., and S. A. Tower and Co., whose individual names and residences are shown by the record herein, by leave of the
194 court granted on the 21st day of February, 1878, hereby amend their original bill filed herein, by striking therefrom and thereby withdrawing all statements and allegations imputing fraud or bad faith to the defendants Boyle or Davis, or either of them, in and about the execution and delivery of the deed of trust to said Hays as trustee for said Davis, and all statements and allegations as to statements made by said Boyle to the agent of said complainants touching the relation of said Davis to the said firm of Boyle and Chapman, and the subsequent firm of Boyle and Co., also all statements and allegations as to the said Boyle being the financial agent and factor of the said Davis, and as to the said Davis being bound or affected by any representation of said Boyle. All the other allegations in said bill are here referred to
195 and reaffirmed as fully as if the same were here set forth in detail, and made a part of this amended bill as fully as if here reiterated, and the original complainants and those parties above named that have been made complainants by leave of the court, as above set forth, here reallege all statements heretofore made in this cause, as shown by the record herein, as to the amount and character of the liabilities of said Boyle and Co., or Boyle and Chapman, to all said parties complainants respectively, except that all said claimants should be credited by amounts equal to (20) twenty per cent. of the same, which pro rata has been paid since the assignment of Boyle and Co. to J. A. Omberg, by the assignee, Omberg. The balance, with interest, is still due the several parties complainants.

196 The premises considered, complainants pray that the parties defendants to the original bill be made defendants hereto, that this be taken as their amended bill under said order, that all such pow-

ers issue and all such orders be made as may be necessary to obtain and protect all complainants' rights in the premises.

And complainants will ever pray.

PIERCE AND DIX,
Sol's for Chatfield and Woods and The Powers Paper Company.
EDWIN HOOLE,
Sur. Part. of Snider and Hoole,
Per T. B. EDGINGTON.
GEO. GILLHAM,
Sol. for S. A. Tower and Co. and for H. B. Graham and Bro.
J. A. TAYLOR,
Sol. for Louis Snider's Sons.

UNITED STATES OF AMERICA,
Western District of Tennessee:

Before me, H. E. Andrews, clerk of the circuit court of the United States for the western district of Tennessee, personally appeared
197 Henry F. Dix, who, being duly sworn, made oath that he is one of the solicitors of complainants in said cause, and that the facts above stated as true are true in fact, and those stated on information he believes to be true.

HENRY F. DIX.

Subscribed and sworn to before this 28th day of February, 1878.
L. H. PILLSBURY,
Deputy Clerk and U. S. Com'r, W. D. of T.

(Endorsed:) No. 284. Equity. Circuit court of the United States, western district of Tennessee. W. H. Chatfield et als. vs. W. F. Boyle et als. Amended bill. Filed Feb. 28th, 1878. H. E. Andrews, clerk, by L. H. Pillsbury, D. C.

198 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D. 1877, at the United States court-house in the city of Memphis, in said district, on, to wit, the 1st day of March, A. D. 1878, in the following cause, to wit:

W. H. CHATFIELD ET AL., PLAINTIFF,
vs.
W. F. BOYLE ET AL., DEFENDANT.
} No. 284. Equity.

Be it remembered that on this 1st day of March, 1878, the above-stated cause came on to be heard in the circuit court of the United States for the western district of Tennessee, on the equity side of the docket, upon the bill, amended bill, order pro confesso, answers, exhibits, proofs, and other papers filed in the cause, and the defendant Boyle having produced his certificate of discharge in bankruptcy since
199 the commencement of this suit and pleaded the same in bar of any further proceedings against him, it is ordered that the bill

be dismissed as to him. And counsel being heard upon argument and briefs, the court took time to consider of the matters in controversy, and being now satisfied that complainants are not entitled to the relief sought in their bill, the court doth order, adjudge, and decree that the injunction heretofore granted be dissolved; that all funds accruing under the deed of trust made March 8th, 1876, by Boyle and Co. to J. A. Hays, trustee, and also the funds in the hands of J. A. Omberg, assignee, or paid over by him under former order in this cause, be turned over to the beneficiary in said deed, and that complainants' bill be dismissed with costs, for which execution may issue. From which
200 decree the complainants, Chatfield and Woods, the Powers Paper Company, Edwin Hoole, surviving partner of Snider and Hoole, Lewis Snider's Sons, H. B. Graham and Bro., and S. A. Tower and Co. pray an appeal to the next term of the Supreme Court of the United States, at Washington, D. C., which is granted them on condition that they enter into bond, with good and sufficient surety, to be approved by the clerk, at the sum of five hundred dollars, as required by law, within the next five days, and in case their said appeal shall be perfected, the fund above described shall be paid to said Davis, and such notes representing said fund be surrendered to him only on condition that he enter into bond, with good and sufficient sureties, to be approved by the clerk of this court, in double the amount thereof, conditioned to pay the money, with interest, into the registry of this court whenever required by the court so to do.

201 CHATFIELD AND WOODS
vs.
BOYLE ET AL.

By agreement between the several parties to this action, the books of the firm of Boyle and Chapman and of Boyle and Company are to be considered as in evidence in the cause, and they may be referred to as such.

I. B. EDGINGTON,
Sol. for Messrs. Snider and Hoole.
PIERCE AND DIX,
For Chatfield and Woods and Powers Paper Co.

I agree to above, but will object to the competency of the evidence and to the introduction of the books on that ground.

CLAPP AND MEUX,
For Jefferson Davis.

(Endorsed:) No. 284. Circuit court of the United States, wes-
202 tern district of Tennessee. Chatfield and Woods et al. vs. W. F. Boyle et al. Agreement as to the books as evidence. Filed March 1st, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

203 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States, within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D. 1877, at the United States court house, in the city of Memphis, in said district, on, to wit, the 2d day of March, A. D. 1878, in the following cause, to wit:

W. H. CHATFIELD ET AL., PLAINTIFF,
vs
W. F. BOYLE ET AL., DEFENDANT. } No. 284. Equity.

This day came the complainants and presented to the court their statement of facts introduced in evidence at the hearing of this cause at the present term, and the same being agreed upon by counsel as correct, and because the said facts do not otherwise appear of record, the said statement is by the court signed and sealed and ordered to be filed as a part of the record in the cause, which is accordingly done this day.

204 W. H. CHATFIELD ET ALS.,
vs.
W. F. BOYLE ET AL. } 284. Equity.

Be it remembered that on the hearing of this cause, the complainants, Chatfield and Woods, offered in evidence the following notes and acceptance:

$642.58.] MEMPHIS, TENN., *July 12th*, 1876.

On the 2d Dec., '76, after date, we promise to pay to the order of Chatfield and Woods six hundred & forty-two $\frac{58}{100}$ dollars at Union and Planters' Bank. Value received.

No. Due Dec. 2–5, '76.

BOYLE AND COMPANY.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. Chatfield vs. Boyle. Filed Mar. 1, 1878. H. E. Andrews, clerk. By L. H. Pillsbury, D. C.

205 $642.58.] MEMPHIS, TENN., *July 12th*, 1876.

On this 5th January, '77, after date, we promise to pay to the order of Chatfield & Woods six hundred & forty-two $\frac{58}{100}$ dollars at Union and Planters' Bank. Value received.

BOYLE AND COMPANY.

No. . Due Jan'y 5, 1877.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

$642.58.] MEMPHIS, TENN., *July* 12, 1876.

On the 2d Feb'y, '77, after date, we promise to pay to the order of Chatfield & Woods six hundred & forty two $\frac{58}{100}$ dollars, at Union and Planters' Bank. Value received.

BOYLE AND COMPANY.

No. . Due Feb'y 2–5, '77.

(Endorsed:) No. 284 equity. Circuit court of the United States, western district of Tennessee. Chatfield vs. Boyle. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

206 $642.60.] MEMPHIS, TENN., *July* 12, 1876.

On the 7th M'c'h, '77, after date, we promise to pay to the order of Chatfield and Woods six hundred & forty-two $\frac{60}{100}$ dollars, at Union and Planters' Bank. Value received.

BOYLE AND COMPANY.

No. . Due M'ch 7–11, '77.

(Endorsed:) No. 284 equity. Circuit court of the United States, western district of Tennessee. Chatfield vs. Boyle. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

$88\frac{56}{100}$.] CHATFIELD & WOODS,
PAPER MANUFACTURERS AND DEALERS,
Cincinnati, Nov. 9th, 1876.

Five days after sight pay to the order of ourselves eighty-eight and $\frac{56}{100}$ dollars. For value received.

CHATFIELD & WOODS.

To Mess. Boyle & Co.
Due . Memphis, Tenn.
312361.
(Across the face:) Nov. 11, '76. Accepted. Boyle & Company.

207 (Endorsed:) No. 284, equity. Circuit court of the United States, western district of Tennessee. Chatfield & Woods. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

[F. S. Davis, president; W. P. Proudfit, vice-president; W. W. Thacker, cashier; C. W. Schulte, ass't cashier, U. S. depository and financial agent.]

FIRST NATIONAL BANK,
Memphis, Tenn., 11.20, 1876.

MESS. CHATFIELD & WOODS, *Cin, O.:*

DEAR SIR: Your favor of the 11.9 is received with enclosure as stated. I return Boyle & Co. refused. Have made assignment.

Resp'y,

W. W. THACKER.

Exchange to-day.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

208 The complainant, the Powers Paper Company, offered in evidence the following notes:

$518.81.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On November 1st, 1876, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{81}{100}$ dollars with interest @ 10% from Oct. 1st, 1876, at Fourth Nat'l Bank of Memphis, Tenn., value received.

BOYLE & COMPANY.

No. . Due Nov. 4.

(Endorsed:) No. 284. Equity. Circuit court of the United States, western district of Tennessee.

Z. J. James, treasurer Powers Paper Company, pay W. W. Thacker, cashier, or order, on acc't of Second National Bank, Springfield, Mass.

LEWIS WARINNER, *Cashier.*

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

First National Bank of Memphis.

Protest.

When due, Nov. 4. 1876.
Number, 30637.
209 Payer, Boyle & Co.
Description, N.
Amount, $523.71.
Exchange,
Draft on
Acc't Second N. B'k.
At Springfield, Mass.
Date of letter, 10, 10.
Lewis Warinner, cashier.
Their number,
Remarks,

UNITED STATES OF AMERICA,
State of Tennessee, Shelby County:

Be it known that on the day hereof, I, C. W. Shulte, notary public for the county of Shelby, State of Tennessee, duly commissioned and sworn according to law, residing in the city of Memphis, in said State, at the request of W. W. Thacker, cashier of the First National Bank of Memphis, the holder, presented at the Fourth National Bank of Memphis, Tenn., the original promissory note (it being payable there), whereof a true copy is on the other side written, and demanded pay-
210 ment thereof from the teller of said bank, and I was answered that the said original promissory note would not be paid; whereupon I, the said notary, at the request aforesaid, have and do hereby solemnly protest against the drawer of said original promissory note and endorsers, and all concerned for all exchange, re-exchange, costs, damages, and interest already suffered and to be suffered for want of payment thereof. And I do hereby certify that on the 4th day of November, 1876, I directed a written notice of the above instrument of protest to Powers Paper Company, Springfield, Mass., one to Powers Paper Company, which last notice I placed under cover of a like notice addressed to Lewis Warinner, cashier, Springfield, Mass., postage paid, and placed the same in the post-office at Memphis, before the departure of any mail.

Thus done, protested, and recorded at Memphis aforesaid, this
211 4th day of November, one thousand eight hundred and seventy-six.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

[L. S.] C. W. SHULTE,
Notary Public.

Postage	05
Protest	$1 00
Recording protest	1 00
Notices	75
Serving notices	
Messengers' fee	
	2 80

(Copy.)

$518.81.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On November 1st, 1876, after date we promise to pay to the order of Powers Paper Company, five hundred and eighteen $\frac{81}{100}$ dollars, with interest at 10% from Oct. 1st, 1876, at Fourth Nat'l Bank of Memphis, Tenn. Value received.

BOYLE AND COMPANY.

(Endorsed:) L. J. Powers, treasurer Powers Paper Company, pay W. W. Thacker, cashier, or order, on account of Second National Bank Springfield, Mass.

LEWIS WARINNER, *Cashier.*

212 (Endorsed:) No. 284. Equity. Circuit court of the United States, western district of Tennessee.

Protest No.
For non-payment.
Boyle & Company, payer.

Amount	$518	81
Interest	$	
Damages	$	
Exchange	$	
Fees	$ 2	80

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

First National Bank.

C. W. Shulte, notary public, 14 Madison street, Memphis, Tenn.

$518.80.] MEMPHIS, TENN., *Aug. 25th*, 1876.

On January 1st, 1877, after date we promise to pay to the order of Powers Paper Company, five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10% from Oct. 1st, 1876, at Fourth Nat'l Bank of Memphis, Tenn. Value received.

BOYLE & COMPANY.

No. 31875. Due Jan. 4, '77.

213 (Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee.

Z. J. James, treasurer Powers Paper Company, pay W. W. Thatcher, cashier, or order, on acc't of Second National Bank, Springfield, Mass.

LEWIS WARINNER, *Cashier.*

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

First National Bank of Memphis.

Protest.

When due, Jun. 4, 1877.
Number, 311875.

Payer, Boyle and Co.
Description, note.
Amount, $518.80, int.
Exchange,
Draft on
Acc't 2 Nat. Bk.
At Springfield, Mass.
Date of letter, 12, 16.
Lewis Warinner, cashier.
Their number,
Remarks,

214 UNITED STATES OF AMERICA,
State of Tennessee, Shelby County:

Be it known that on the day hereof, I, C. W. Shulte, notary public for the county of Shelby, State of Tennessee, duly commissioned and sworn according to law, residing in the city of Memphis, in said State, at the request of W. W. Thatcher, cashier of the First National Bank of Memphis, the holder, presented at the Fourth National Bank of Memphis, Tenn., the original promissory note, (it being payable there,) whereof a true copy is on the other side written, and demanded payment thereof from the cashier, Mr. McClure, of said bank, and I was answered that the said original promissory note would not be paid. Whereupon I, the said notary, at the request aforesaid, have and do hereby solemnly protest against the drawer of said original promissory note and indorsers, and all concerned, for all exchange, re-ex-
215 change, costs, damages and interest already suffered and to be suffered for want of payment thereof. And I do hereby certify that on the fourth day of January, 1877, I directed a written notice of the above instrument of protest to Powers Paper Company, L. J. Powers, Springfield, Mass., one to Lewis Warinner, cashier Second National Bank, Springfield, Mass., under cover of which I placed a second notice addressed to L. J. Powers, treasurer Powers Paper Company, postage paid, and placed the same in the post-office at Memphis, before the departure of any mail.

Thus done, protested and recorded at Memphis aforesaid, this fourth day of January, one thousand eight hundred and seventy-seven.

In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

[L. S.] C. W. SHULTE,
Notary Public.

Postage	05
Protest	$1 00
Recording protest	1 00
Notices	75
Serving notices	
Messenger fees	
	2 80

216 (Copy.)

$518.80. MEMPHIS, TENN., *Aug. 25th*, 1876.

On January 1st, 1877, after date we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars with in-

terest at 10 % from Oct. 1st, 1876, at Fourth National Bank of Memphis, Tenn., value received.

BOYLE & COMPANY.

(Endorsed:) L. J. Powers, treasurer Powers Paper Company, pay W. W. Thacher, cashier, or order, on acc't of Second National Bank, Springfield, Mass.

LEWIS WARINNER,
Cashier.

Protest No. .
For non-payment.
Boyle and Company, payer.

Amount	$518 80
Interest	8 13 40
Damages	8
Exchange	8
Fees	8 2 80
	$535

First National Bank.

C. W. Shulte, notary public, 14 Madison st., Memphis, Tenn.

217 $518.80. MEMPHIS, TENN., *Aug. 25th*, 1876.

On December 1st, 1876, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10 %, from Oct. 1st, 1876, at Fourth Nat'l Bank of Memphis, Tenn., value received.

BOYLE & COMPANY.

No. 13767.
Due Dec. 4th.

(Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee.

Z. J. James, treasurer Powers Paper Company, pay W. W. Thacher, cashier, order, on acc't of Second National Bank, Springfield, Mass.

LEWIS WARINNER,
Cashier.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

$518.80. MEMPHIS, TENN., *August 25th*, 1876.

On February 1st, 1877, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10 % from Oct. 1, 1876, at Fourth National Bank of Memphis, Tenn., value received.

BOYLE & COMPANY.

32665.
Due Feb. 4, '77.

218 (Endorsed:) No. . Circuit court of the United States, western district of Tennessee.

Z. J. James, treasurer Powers Paper Company, pay W. W. Thacher, cashier, or order, on acc't of Second National Bank, Springfield, Mass.

LEWIS WARRINNER,
Cashier.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

$518.80. MEMPHIS, TENN., *August 25th*, 1876.

On March 1, 1877, after date, we promise to pay to the order of Powers Paper Company five hundred and eighteen $\frac{80}{100}$ dollars, with interest at 10% from Oct. 1, 1876, at Fourth Nat'l Bank of Memphis, Tenn., value received.

BOYLE & COMPANY.

No. .
Due M'ch 4, '77.

(Endorsed:) No. . Circuit court of the United States, western district of Tennessee. Z. J. James, treasurer Powers Paper Company.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

219 Complainant, Edwin Hoole, surviving partner of Snider and Hoole, offered in evidence the following notes:

$322.47. MEMPHIS, TENN., *Nov. 11th*, 1876.

Ninety days after date we promise to pay to the order of Snider and Hoole three hundred and twenty-two $\frac{47}{100}$ dollars, at Fourth National Bank, value received.

BOYLE & COMPANY.

No. .
Due Feb'y 12, '77.

(Endorsed:) Nat'l Bank of Commerce. B. D. No. 1744. Cincinnati, O. No. .

Circuit court of the United States, western district of Tennessee.

Snider and Hoole pay J. P. Read, cashier, or order for coll., for National Bank of Commerce, Cincinnati, O.

Paid on this note Feb'y 8, '77, forty-eight $\frac{37}{100}$ dollars, being pro rata distribution, 15 %.

J. A. OMBERG,
Assignee.

Refused Feb'y 12, '77.

HUNTINGDON, *C. R.*

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

220 $266.53 doll's.] MEMPHIS, TENN., *Sept. 28th*, 1876.

Two months after date we promise to pay to the order of Snider and Hoole two hundred & sixty-six & $\frac{53}{100}$ dollars, payable at Union and Planters' Bank. Value received.

BOYLE & COMPANY.

No. 2685. Due Dec. 1, '76.

(Endorsed:) No. . Circuit court of the United States, western district of Tennessee.

Paid on this note thirty-nine $\frac{97}{100}$ doll's, Feb'y 8, '77.

J. A. OMBERG, *Assignee.*

Paid on the claim of Snider and Hoole, ag'st Boyle and Co., sixty-one $\frac{50}{100}$ dollars.
Feb'y 9, '78.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

221 $320.92. 2179. MEMPHIS, TENN., *Oct'r* 28, 1876.

Seventy-five days after date we promise to pay to the order of Snider and Hoole three hundred and twenty $\frac{92}{100}$ dollars, at the Fourth Nat'l Bank. Value received.

BOYLE & COMPANY.

No. . Due Jan'y 11–14, '77.

(Endorsed:) Nat'l Bank of Commerce, B. D. No. 1743, Cincinnati, O. Snider and Hoole. No. .

Circuit court of the United States, western district of Tennessee.

Pay S. P. Read, cashier, or order, for coll. for National Bank of Commerce, Cincinnati, O.

Paid forty-eight $\frac{15}{100}$ on this.

J. A. OMBERG, *Assignee.*

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

222 $319.59. MEMPHIS, TENN., *Oct'r* 13, 1876.

Sixty days after date we promise to pay to the order of Snider and Hoole three hundred and nineteen $\frac{59}{100}$ dollars, at the Fourth Nat'l Bank. Value received.

BOYLE & COMPANY.

No. $2900\frac{2}{147}$. Due Dec. 12–15, '76.

(Endorsed:) #4717. Due Dec. 12–15, $319.59.

Paid Feb'y 8, '77, forty-seven $\frac{92}{100}$ dollars.

J. A. OMBERG, *Assignee.*

Snider & Hoole. No. .

Circuit court of the United States, western district of Tennessee.

Pay Ed. Goldsmith, cashier, or ord r, for collection account of German Banking Co.

CHAS. RICE, *Cashier.*

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

223 UNITED STATES OF AMERICA,
State of Tennessee, Shelby County:

Be it known that on the day of the date hereof, I, Hunsdon Cary, a notary public in and for the county of Shelby, in the State of Tennessee, duly commissioned and sworn according to law, residing in the city of Memphis, in said State, at the request of the Manhattan Bank of Memphis, the holder, presented at the Fourth National Bank, in Memphis, Tennessee, the original promissory note (it being payable there), whereof a true copy is on the other side written, and demanded payment thereof from the cashier of said bank, and I was answered that the said original promissory note would not be paid. Whereupon I, the said notary, at the request aforesaid, have, and do hereby solemnly protest against the makers of said original promissory note and indorsers, and all
224 concerned, for all exchange, re-exchange, costs, damages, and interest, already suffered, and to be suffered, for want of payment thereof.

Thus done, protested, and recorded, at Memphis aforesaid, this 15th day of December, one thousand eight hundred and seventy-six.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

[L. S.] HUNSDON CARY,
Notary Public.

I hereby certify that on this 15th day of December, 1876, I directed a partly written and partly printed notice of the above instrument of protest to Snider & Hoole, and placed the same under cover of a like notice addressed to Chas. Rice, cashier German Banking Co., Cincinnati, Ohio; one to Snider and Hoole, Cincinnati, Ohio; and one to Boyle & Company, Memphis, Tenn., postage paid, and placed the same in the post-office at Memphis, before the departure of any mail.

[L. S.] HUNSDON CARY,
Notary Public.

225	Postage	10
	Protest	$1 00
	Recording protest	1 00
	Notices	1 00
	Serving notices	
	Messenger's fee	
	Expenses	
		$3 10

No revenue stamp.

$319.59. MEMPHIS, TENN., *Oct'r 13th*, 1876.

Sixty days after date we promise to pay to the order of Snider and Hoole three hundred and nineteen $\frac{59}{100}$ dollars, at the Fourth National Bank. Value received.

BOYLE & COMPANY.

No. 2900, 2, 12, 7. Due .

(Endorsed) Snider & Hoole.

Pay Ed. Goldsmith, cashier, or order, for collection, account of German Banking Co.

CHAS. RICE, *Cashier.*

Commercial protest.
Non-payment.
Boyle & Company, payer.

Amount		$319 59
Interest		$
Damages		$
Exchange		$
Fees		$ 3 10
		$

226 (Endorsed:) No. 284. Circuit court of the United States, western district of Tennessee. W. H. Chatfield et al. vs. W. F. Boyle et al. Four promissory notes of Boyle & Co. due to Messrs. Snider & Hoole. Filed Mar. 1, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

Complainants, Louis Snider's Sons, offered in evidence the following notes:

$497.46.] MEMPHIS, *April 21st*, 1876.

On August 5th, after date, we promise to pay to the order of Louis Snider's Sons four hundred and ninety-seven $\frac{46}{100}$ dollars, at Union and Planter's Bank of Memphis, with interest from date, value received.

BOYLE & COMPANY.

No. . Due .

(Endorsed:) Ex. A.

$497.46.] MEMPHIS, *April 21st*, 1876.

On Sept. 9th, after date, we promise to pay to the order of Louis
227 Snider's Sons four hundred and ninety-seven $\frac{46}{100}$ dollars, at Union and Planters' Bank of Memphis, with interest from date.

BOYLE & COMPANY.

No. . Due .

(Endorsed:) Ex. B.

228 Complainants, H. B. Graham & Bro., offered in evidence the following acceptances:

132\frac{45}{100}$.] OFFICE OF H. B. GRAHAM AND BROTHER,
No. 113 NORTH SECOND ST.,
St. Louis, August 3, 1876.

Three days after sight pay to the order of H. B. Graham and Bro. one hundred thirty-two & $\frac{45}{100}$ dollars, with exchange on New York or St. Louis.

H. B. GRAHAM & BRO.

To Messrs. BOYLE & Co.,
Memphis, Tenn.

29,516.
No. 3,204.

(On the margin:) Wholesale paper-warehouse.
(Across the face:) Accepted. Boyle & Company.
(Endorsed:) No. 284. Equity. Circuit court of the United States, western district of Tennessee.
Pay to the order of W. W. Thacker, cash'r, for collection for acc't of H. B. Graham and Bro., of St. Louis.
Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk*.
L. H. PILLSBURY, *D. C.*

229 173\frac{26}{100}$.] OFFICE OF H. B. GRAHAM AND BROTHER,
No. 113 NORTH SECOND ST.,
St. Louis, June 20, 1876.

Sixty days after date pay to the order of H. B. Graham & Bro. one hundred seventy-three and $\frac{26}{100}$ dollars, with exchange on New York or St. Louis.

H. B. GRAHAM & BRO.

To Messrs. BOYLE & Co.,
Memphis, Tenn.

No. 3205.
(On the margin:) Wholesale paper warehouse.
(Across the face:) Accepted. Boyle & Company.

(Endorsed:) No. . Circuit court of the United States, western district of Tennessee.

Pay German N. B., Memphis, or order, on account of Lucas Bank, St. Louis.

R. R. HUTCHINSON,
Cashier.

H. B. GRAHAM & BRO.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

64387.
Boyle & Co., Aug. 22.

UNITED STATES OF AMERICA,
State of Tennessee, Shelby County:

230 Be it known that on the day of the date hereof, I, M. B. Trezerant, a notary public for the county of Shelby, in the State of Tennessee, duly commissioned and sworn according to law, and residing in the city of Memphis, in said State, at the request of Martin Griffin, cashier of the German National Bank of Memphis, Tennessee, the holder presented at the business place of Boyle and Co., in Memphis, Tennessee, the original draft (it being payable there), whereof a true copy is on the other side written, and demanded payment thereof, from W. F. Boyle, of said firm, and I was answered that the said original draft would not be paid. Whereupon, I, the said notary, at the request aforesaid, have and do hereby solemnly protest against the drawers of said original draft, and indorsers, and all concerned, for all exchange, re-exchange, costs, damages and interest, already suffered and to be suffered, for want of payment thereof.

231 Thus done, protested and recorded, at Memphis aforesaid, this, the 22d day of August, one thousand eight hundred and seventy-six.

In testimony whereof I have hereunto set my hand and affixed my seal notarial the day and year above written.

[L. S.] M. B. TREZERANT,
Notary Public.

I do hereby certify that on this, the 22d day of August, 1876, I directed a written notice of the above instrument of protest to H. B. Graham and Bro., and placed the same under cover of a like notice addressed to R R. Hutchinson, cashier Lucas Bank, St. Louis, Mo., and one to H. B. Graham & Bro., St. Louis, Mo., postage paid, and placed the same in the post-office at Memphis, before the departure of any mail.

[L. S.] M. B. TREZERANT,
Notary Public.

Fees:

Protest	$1 00
Recording protest	1 00
Postage	5
Notices	75
Serving notices	
Messenger's fee	
	$2 80

232 $173\frac{26}{100}$.

OFFICE OF H. B. GRAHAM & BRO.,
NO. 113 NORTH SECOND ST.,
St. Louis, June 30, 1876.

Sixty days after date pay to the order of H. B. Graham & Bro. one hundred seventy-three $\frac{26}{100}$ dollars, with exchange on New York or St. Louis.

H. B. GRAHAM & BRO.

Accepted: Boyle & Company.
To Mess. BOYLE & CO., *Memphis, Tenn.*
29515.
3205.
(Endorsed:) 64387.

H. B. Graham and Bro. Pay German N. B. Memphis or order on account of Lucas Bank, St. Louis.

R. R. HUTCHINSON, *Cashier.*

(Endorsed:) No. 284. Equity. Circuit court of the United States western district of Tennessee. Commercial protest. For non-payment. Boyle & Company, payers.

Amount	$	173 26
Interest	$	
Damages	$	
Exchange	$	
Fees	$	2 80

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

233 And complainants, S. A. Tower & Co., offered in evidence the following note:

$630\frac{87}{100}$.

MEMPHIS, TENN., *April 1st*, 1876.

Four mo's after date we promise to pay to the order of S. A. Tower & Co. six hundred and thirty $\frac{87}{100}$ dollars at Fourth National Bank of Memphis. Value received.

BOYLE & COMPANY.

No. Due .

(Endorsed:) 64040. Boyle & Co., 1663. No. , Aug. 4.

Circuit court of the United States, western district of Tennessee.

Filed Mar. 1, 1878.

H. E. ANDREWS, *Clerk.*
L. H. PILLSBURY, *D. C.*

S. A. Tower & Co., for collection account of N. Y. Nat'l Ex. Bank.

C. B. OUTCALT, *Cashier.*

7, 18.

UNITED STATES OF AMERICA,
State of Tennessee, Shelby County:

234 Be it known that on the day of the date hereof I, Hunsdon Cary, a notary public in and for the county of Shelby, in the State of Tennessee, duly commissioned and sworn according to law,

residing in the city of Memphis, in said State, at the request of Martin Griffin, cashier, the holder, presented at the Fourth National Bank in Memphis, Tennessee, the original promissory note (it being payable there), whereof a true copy is on the other side written, and demanded payment thereof from the cashier of said bank, and I was answered that the said original promissory note would not be paid. Whereupon I, the said notary, at the request aforesaid, have and do hereby solemnly protest against the drawers of said original promissory note and indorsers and all concerned for all exchange, re-exchange, costs, damages, and interest already suffered, and to be suffered, for want of payment thereof.

Thus done, protested, and recorded, at Memphis aforesaid, this
235 4th day of August, one thousand eight hundred and seventy-six.

In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

[SEAL.] HUNSDON CARY,
Notary Public.

I hereby certify that on this 4th day of August, 1876, I directed a partly written and partly printed notice of the above instrument of protest to S. A. Tower & Co, and placed the same under cover of a like notice addressed to C. B. Outcalt, N. Y. Nat'l Ex. Bank, New York, N. Y., and one to S. A. Tower & Co., New York, N. Y., and one to Boyle & Company, Memphis, Tenn, postage paid, and placed in the post-office at Memphis before the departure of any mail.

HUNSDON CARY,
Notary Public.

Postage	10
Protest	$1.00
Recording protest	1.00
Notices	1.00
Serving notices	
Messenger's fee	
Expenses	$
	$3.10

236. No revenue stamp, Aug. 4.

$630 $\frac{87}{100}$ MEMPHIS, TENN., *April* 1, 1876.

Four mo's after date we promise to pay to the order of S. A. Tower & Co. six hundred and thirty $\frac{87}{100}$ dollars at Fourth National Bank of Memphis. Value received.

BOYLE & COMPANY.

No. due .

(Endorsed:) S. A. Tower & Co. For collection, account of N. Y. Nat'l Ex. bank. C. B. Outcalt, cashier.

(Endorsed:) No. 284. Equity circuit court of the United States western district of Tennessee. Commercial protest. Non-payment. Boyle and Company payers.

Amount	$630.87
Interest	$
Damages	$
Exchange	$
Fees	$ 3.10
	$633.97

S. A. Tower & Co., German National Bank. Hunsdon Cary, U. S. commissioner, notary public, and commissioner of deeds for the several States, office No. 5 Madison st.

[L. S.] [L. S.]

237 [☞All claims for deduction must be made within ten days from receipt of goods. Inks and mucilage shipped at the buyers' risk. Terms, . P. O. Box 1806.]

NEW YORK, , 1876.

Messrs. Boyle and Co., Memphis, Tenn., bought of S. A. Tower & Co., successors to Tower, Gildersleeve & Co., late Cutter, Tower & Co., manufacturing stationers, No. 361, Broadway.

(Across the face in red:) Removed to 305 Broadway, cor. Duane st. All invoices must be settled within 30 days either by cash or note, payable with exchange on New York.

Apr. 14.	500 tassels 2, 1.25			6 25
May 12.	5 M., 2 Magill's fast, 250	12 50		
	5 M, " " 275	13 75		
		26 25		
	Less 20%	5 25		
				21 00
	2 doz. Arnold's q'ts copy, 10			20 00
	" Clark's inder. pel			2 00
	½ " 1 crown inkstand, 9	75		
	15%	11		
				64
	1 doz. 12 B. E. rulers	2 75		
	1 " 15 "	3 50		
	1 " 18 "	4 25		
		10 50		
	25%	2 63		
				7 87
	¼ doz. 6 × 9 log slates, 825	2 06		
	¼ " 7 × 15 " " 1,365	3 41		
238	½ " 7 × 11 " " 1,020	2 55		
		8 02		
	40%	3 20		
				4 82
	1 cash box 8			1 12
	1 " 9			1 25
	1 " 10			1 38
	1 " 11			1 50
	1 " 13			1 75
	1 lb. super. India ink, 6 × tobb			4 00
	2 doz. safety inkstands, 16	12		
	1 " " " 2	9		
		21		
	40%	8 40		12 60
	Am't forward			86 18
	Bro't forward			86 18
	1 doz. P. Blelep's Hole, 3			25
	½ " " Laller, 3.50			29
	½ " " Cap., 4.00			34
	Case			75
				87 81
May 24.	To cash on note (Jan'y accept)			169 00
				256 81

239 STATE OF NEW YORK,
City & Co. of New York, ss:

S. A. Tower, being duly sworn, says that he is a member of the firm of S. A. Tower & Co. composed of this deponent and Robert I. Loomis, doing business at No. 306 Broadway, in the city of New York.

That on the dates mentioned in the annexed bill deponent's firm sold and delivered to Mess. Boyle & Co. the goods, wares, and merchandise described in the annexed bill at the prices therein mentioned; also the cash therein mentioned was paid by deponent's said firm for said firm of Boyle and Co. as therein described; that said account or no part thereof has been paid; that no note or notes have been taken for said account, or no judgment or judgments recovered thereon; that there are no offsets or counter claims to the same; but that said sum of two
240 hundred and fifty-six dollars and eight-one cents, and the whole thereof, is now due and owing deponent's said firm from said Boyle & Co.

S. A. TOWER & CO.

Sworn before me Aug. 14, 1876.
[L. S.]
J. C. CROKER,
Notary Public, N. Y. Co.

(Endorsed:) No. 284 equity. Circuit court of the United States, western district of Tennessee. Filed Mar. 1, 1878. H. E. Andrews, clerk, L. H. Pillsbury, D. C.

And complainants Chatfield and Wood, Louis Snider's Sons and S. A. Tower and Co. also exhibited statements of their accounts against Boyle & Co., for the amounts respectively as shown by the deposition of W. F. Boyle.

Complainants offered to read in evidence the following entries from one of the books of Boyle and Chapman, marked "Cross entry
241 journal B," on page 119, under date of June 30th, 1875:

Profit & loss. To sundries:

Jefferson Davis interest on money ($25,000.00)	$3,973 97

On page 176, under date of July 1st, 1876:

Profit & loss. To sundries:

Jefferson Davis ½ of profits as interest on money	$2,370 93
Profit & loss to Jefferson Davis	33 33
Interest to Jefferson Davis on open account to date	$497 08
Interest to Jefferson Davis	$192 43

To the reading of which the defendant, Jefferson Davis, by his solicitor objected, which objection was held under advisement by the court, the court holding that if the law and facts showed the defendant Davis to be a partner, the books offered were admissible as evidence, otherwise they were not. Subject to this ruling, the books were allowed to be read.

Under notice served on the solicitor of Jefferson Davis to pro-
242 duce all statements rendered him by Boyle and Chapman or Boyle and Co. of his account with them, J. A. Hays, jr., produced the following statements:

Personally appeared before me, J. A. Hays, jr., in the absence of Mr. Davis from the city, and produced the within statement of accounts between Boyle and Chapman and Boyle and Co. in reference to the notice served on the counsel of Jefferson Davis, and states that he was the agent of Mr. Davis in his business matters during his absence from the city of Memphis, which were frequent and protracted; that said

account, beginning Aug. 3, 1875, and ending July 10, 1876, was furnished by Boyle at the request of affiant, and is, so far as affiant knows and believes, the only statement rendered, except such fragmentary statements of bills made by Mr. Davis or his family, &c., as are
243 herewith enclosed. And affiant states that said account was handed to him during the absence of Mr. Davis, and was never seen by him, as affiant believes, until after suit was commenced by Chatfield and others.

J. W. HAYES, JR.

Subscribed and sworn to before me this 21st Feb'y, 1878.

JNO. W. GRAHAM,
Notary Public.

Hon. Jefferson Davis in account with Boyle & Chapman.

244	1875.			
	August	3.	To cash p'd order Mrs. Davis	100 00
		4.	" " " to Oliver Finnie & Co	29 22
		7.	" " " Wheeler Pickens & Co	6 00
			" " " Menken Bros	28 90
			express charges	50
		9.	Order Mrs. Davis to Duffey & Carey	22 95
			" " " Johnston & Nunns	815
		11.	Rent note	100 00
		13.	Miss Maggie	1 00
			Order Mrs. Davis to Miss Trout	22 25
		17.	" " "	100 00
	Sept.	1.	" " " " Louis Lange	8 50
			" " " " Wm. Frank & Co	31 95
		2.	" " " " Jos. Coll & Co	62 29
		4.	" " " "	100 00
		6.	" " " " Dr. T. W. Arrington	60 00
		7.	" " " " J. S. Robinson	37 95
		8.	Express ch'g's on paper	50
		9.	Rent note	100 00
		10.	G. L. Clives, Oct. 6, '74	20 00
		14.	Order Mrs. Davis to Duffey & Carey	13 70
		15.	" " "	100 00
		30.	" " " " A. Carr	27 00
			" " " " Mr. Capady	5 00
	Oct.	4.	For stamps	1 50
		5.	Draft to order E. H. Leidy	569 79
			" C. N. Erich	14 00
		6.	For R. R. ticket to Hopkinsville, Ky	11 20
		7.	For s't exchange on Paris	500 00
245	Oct.	8.	Rent note	100 00
		11.	Order Mrs. Davis to Duffey & Carey	21 65
		12.	" " " " Wheeler, Pickens & Co	4 00
			" " " " Mrs. Kremer	4 45
			" " " " Sproule & McCown	28 50
			" " " " Oliver, Tinnie & Co	3 88
			" " " " Wm. Frank & Co	43 27
			" " " " Menken Bros	17 95
		13.	" " " " Herzog Bros	16 95
			" " " " Ettes, Fizer & Co	37 31
			" " " " Johnston & Nunns	10 55
			" " " " H. Harder	26 25
		14.	" " " " Spect & Walter	5 65
		15.	" " " " Bohlen, Huse & Co	20 09
		16.	" Jefferson Davis, jr	25 00
		19.	" Mrs. Davis to F. D. Baumns & Co	56 45
		20.	Jefferson Davis, jr	41 00
		21.	Order Mrs. Davis	100 00
			Amount forward	2,645 21

a/c continued:

Oct.	28.	To am't bro't forward	2,645	21
	"	" cash p'd order Mrs. Davis to J. S. Robinson	12	80
Nov.	1.	" " " "	100	00
	2.	subscription to Arundel Society, £22s.	12	80
		M. Meriweather, S. & Co. taxes	47	26
	9.	" " " "	36	27
	10.	order Mrs. Davis, T. B. Coffey & Co.	16	50
		" " " Spect & Walter	5	85
		" " " Duffey & Carey	30	75
	11.	" " " J. S. Robinson	10	60
246		Order Mrs. Davis to Mrs. Kremer	9	00
	12.	J. D. Colby	10	90
		Grover & Baker	8	65
	13.	J. W. X. Brown	4	00
	18.	Postage and express charges	2	62
	20.	Order Mrs. Davis to Jos. Coll & Co	31	04
	24.	" " "	55	00
		J. A. Hayes, jr., Hernando	200	00
	27.	For stamps	1	00
Dec.	4.	Pew rent	18	75
	"	For P. O. order sent So. Review	5	10
		Order Mrs. Davis to Singer M'f'g Co	5	00
		" " " " Gas-Light Co	16	80
	6.	" " "	100	00
	"	" " " Mr. Capady	15	00
		For stamps	1	50
		Order Mrs. Davis to Duffey & Carey	36	20
				3,437 98

MEMPHIS, TENN., *Dec.* 13, 1875.

MEMPHIS, TENN., *July* 1, 1876.

Hon. Jefferson Davis bought of Boyle & Chapman, wholesale stationers, blank-book manufacturers, & printers, 279 Main street.

1875.
Dec. 14. To bill of stationery rend., and included in balance of $3,587 73.. $149 75

(Across the face:) Boyle & Company, successors.

Hon. Jefferson Davis in acc't. with Boyle & Company.

247	1875.			
	Dec. 14.	To a/c rendered	3,587	73
Dec.	18.	Cash p'd for telegram		75
	21.	Order Mrs. Davis	58	40
	22.	" " " to Oliver F. & Co	33	78
	23.	" " "	50	00
	24.	" " " M. Meriwether to Jno. Abell	150	00
	27.	Cash p'd for telegram		95
	30.	Order Mrs. D. to Menken Bros	13	00
	31.	Cash paid hire	100	00
	"	" " order Mrs. Davis	50	00
	"	" " " C. N. Erich	13	25
Jan'y	1.	" " M. Meriwether to Jno. Abell	225	00
	4.	" " order Mrs. Davis to J. W. Vogili	6	25
	5.	" " " " " Herzog & Bro	37	92
	6.	" " " " " Gas Co	15	30
	7.	" " " " " Estes, Fizer & Co.	10	54
		" " " " "	101	00
	8.	" " " " " M. Meriwether to John Abell	300	00
		" " " " " Brown & Jones	9	50
		" " " " " Johnston & Nunns	24	40
		" " " " " J. S. Robinson	16	75
		" " " " " J. D. Colby	19	00
	11.	" " " letter carrier	2	00

		12.	Cash paid Trezevant & Carey	10 00
		15.	" " M. Meriwether to John Abell	300 00
		17.	" " pew rent to St. Lazarus Church	37 50
		18.	" " order Mrs. Davis to Jos. Coll & Co.	47 66
			" " " " " " Dr. W. A. Edmonds	10 00
			" " " M. Meriwether to O H. P. Piper	500 00
248	Jan'y	19.	To cash p'd order Mrs. Davis to C. L. Byrd	14 50
			" " " postage on p'k'ge to N. O	27
	Jan'y	20.	" " " " order Mrs. Davis to Speet & W	21 25
			" " " " " " " Duffey & C.	13 73
			" " " for postage-stamps	1 00
		22.	" " " order M. Meriwether to John Abell.	300 00
		26.	" " " " " " "	100 00
			" " " " " " O. H. P. Piper	500 00
			" " " order Mrs. Davis to Mrs. Arnold.	4 00
			" " " " " " Bingham Bros	6 00
			" " " " M. Meriwether to John Abell.	400 00
		31.	" " " order Mrs. Davis	20 00
	Feb'y	2.	" " " " " "	100 00
	"		" " " " a/c A Vascaro & Co	67 00
		3.	" " " O. H. P. Piper on order M. M riwether	400 00
		5.	" " " Jno. Abell to J. A. H., jr	100 00
			Am't forward	7,779 43
			a/c continued:	
	Feb'y	5.	Am't bro't forward	7,779 43
		8.	To cash p'd note Gen'l J. R. Davis	225 00
		9.	" " " order Mrs. Davis to Bohlen, Huse & Co.	17 70
			" " " " " " Menken Bro's	37 55
			" " " " " " Oliver, F. & Co	62 52
		10.	" " " M. Meriwether to John Abell	150 00
		12.	" " " " " " " "	150 00
		15.	" " " order Mrs. Davis	15 75
			" " " for stamps	1 00
		17.	" " " order M. Meriwether to Mallon & Co.	125 00
		19.	" " " " " " Jno. Abell	150 00
		21.	" " " Jefferson Davis, jr	65 50
249	Feb'y	22.	To cash p'd order Mrs. Davis	50 00
		23.	" " " O. H. P. Piper on order M. Meriwether	100 00
			" " " a/c Murray and Ridgeley	85 00
	Feb'y	24.	" " " for telegram	25
		26.	" " " Jno. Abell order M. Meriwether	100 00
	March	1.	" " " " " " " "	100 00
			" " " Jefferson Davis, jr.	16 00
		2.	" " " M. Meriwether to Jno. Abell	30 00
		3.	" " " order Mrs. Davis	50 00
			" " " " " " Oliver, F. & Co.	18 61
			" " " " " " Gas Co	9 60
			" " " " " " Mitchell & H.	7 00
		4.	" " " " " " Wm. Frank & Co	24 10
		6.	" " " M. Meriwether to Jno. Abell	100 00
		7.	" " " Mrs. J. A. Hays, jr., for "Trousseau"	25 00
			" " " order Mrs. Davis, Duffey & Carey	10 18
			" " " " " " Mrs. Kremer	21 05
			" " " " " " Herzog & Bro	14 60
		8.	" " " " " " Johnson & Nunns	6 40
		9.	" " " " " " Louis Lange	3 75
			" " " O. H. P. Piper bal order	200 00
		13.	" " " order Mrs. Davis	50 00
		15.	" " " " " " to J. S. Colby	11 20
		17.	" " " " " " Oliver, F. & Co	18 95
		21.	" " " Memphis City Fire & Gen'l Ins. Co	40 00
		24.	" " " advertising Clement's property	26 00
		25.	" " " order Mrs. Davis	25 00
		29.	" " " " " " to Craig & Co	17 25
	April	1.	" " " " " "	100 00
250	April	1.	To cash pd. order Mrs. Davis to Jos. Cole & Co.	35 25

		To cash paid N. C. Perkins "rent"	166 66	
	4.	" " " order Mrs. Davis to Estes, Fizer & Co	22 43	
	5.	" " " " " " " Loyd & Fritz	14 00	
	12.	" " " rent to N. C. Perkins & Miss Ella Gay	166 66	
		Am't forward	10,445 39	
		⅔ continued:		
April	12.	To am't bro't forward	10,445 39	
	14.	To cash paid order Mrs. Davis	100 00	
	15.	" " " " M. Meriwether to Jno. Abell	25 00	
	17.	" " " " Mrs. Davis	50	
	26.	" " " " " "	12 50	
	27.	" " " " " " Jos. Elliott	18 00	
		" " " " M. Meriwether to Windel & Parrent	100 00	
May	2.	" " " " J. A. Hayes, jr	103 25	
	6.	" " " " M. Meriwether to Jno. Abell	125 00	
	9.	" " " " J. A. Hayes, jr	103 92	
	12.	" " " " " " " to J. D., jr	10 00	
	15.	" " " " " " " " "	17 00	
	17.	" " " " " " " Jno. A'ell	53 00	
	18.	" " " " " " " "	23 35	
	30.	" " " Jeff. Davis, jr	10 00	
		" " " " order J. A. Hayes, jr	8 50	
		" " " " " " "	20 95	
June	2.	" " " " " M. Meriwether to P. J. Mallon & Co	75 00	
		" " " " on " " Gunn & Coover	150 00	
	10.	" " " " " J. A. Hayes, jr., to J. D., jr	15 00	
	14.	" " " " " " "	36 75	
	21.	" " " " " " " " "	10 00	
251	June	26. To cash paid rent to Wm. Messick, ag't Miss Gay	83 33	
	27.	" " " order J. A. Hayes, jr., to J. D., jr	35 00	
July	1.	" " " " M. Meriwether " Mallon & Co	80 00	
	"	" " " on " " " Cubbins & Gunn	100 00	
	3.	" " " " J. A. Hayes, jr., to J. D., jr	4 00	
	5.	" " " " " "	11 40	
	10.	" ⅔ stationery rend	91 25	
				11,868 09

CREDITS.

July	1.	By balance ⅔ rend	8,780 32	
Sep.	24.	" cash	700 00	
Dec. '76.	15.	" " Jno. D. Adams	5 00	
Jan'y	26.	" " " " "	500 00	
Feb'y	15.	" " " " "	150 00	
March	21.	" " " " "	75 00	
April	18.	" " " " "	75 00	
July	1.	" " ⅓ profits, 1876	2,370 93	
		" interest	497 08	
				13,153 33
		Bal. to y'r credit		1,285 24
		July 10, '76. By Memphis City Fire and Gen'l Ins. Co. stock		350 00
				1,635 24
		Additional profit		33 33
		Interest		192 43
				1,861 00
252	Oct. 1, '74.	Amount on hand as per book	4,290 23	
	Oct. 1, '74.	Amount not included	404 12	
			4,694 35	

	Interest to M'ch 1, '75	234 71	
Jan'y 1, '75.	W. B. Greenlan, paid	1,883 44	
	Interest to M'ch 1, '75	38 44	
Oct. 28, '73,	C. C. Partee, paid	67 68	
	Interest to M'ch 1, '75	2 78	
Feb. 22, '74.	Washington F re Ins. Co. st'k	200 00	
	Interest to M'ch 1, '75	60	
		$7,122 00	

Hon. Jefferson Davis in a/c with Boyle and Chapman.

1874.				
Oct.	12.	Cash paid house rent	60 00	
		Cash paid for cable message	11 40	
	20.	Cash " order Mrs. Davis	100 00	
		Cash " express charges	50	
Nov.	3.	Cash " B. Lowenstein & Bro., order Mrs. D	100 00	
	4.	Cash " order Mrs. Davis, 50.00; J. Devoto, 90	50 90	
		Cash " Mrs. Kremer order Mrs. Davis	23 87	
	11.	Cash " Johnston & Nunns " " "	6 75	
	13.	Cash " order Mrs. Davis	50 00	
	24.	Cash " " " "	50 00	
Dec.	1.	Cash " Jno. Irwin Trust order Mrs. Davis	46 04	
	3.	Cash " hire by Mr. Boyle in N. O	2 00	
	5.	Cash " Emile Levy	39 50	
		Cash " order Mrs. Davis	50 00	
		Cash " Ch's N. Erich, order Mrs. Davis	16 75	
253	Dec. 8.	Cash paid Mrs. Davis	1 00	
	14.	Cash " Mrs. J. H. Allen, order Mrs. Davis	100 00	
	16.	Cash " postage	25	
	24.	Cash " pew rent	20 00	
		Cash " J. Frost & Co., order Mrs. Davis	2 50	
	29.	Cash " order, Mrs. Davis	20 00	
'75.			100 00	
Jan'y	2.	Cash " order, Mrs. Davis	100 00	
	7.	Cash " Mrs. Kremer, order Mrs. Davis	48 50	
	13.	Cash " Menken Bros. " " "	50 00	
	16.	Cash " order Mrs. Davis	25 00	
	30.	Cash " stamps	1 50	
Feb'y	1.	Cash " W. C. Byrd	30 75	
	2.	Cash " order Mrs. Davis	100 00	
	6.	Cash " Oliver, Fennie & Co., order Mrs. Davis	50 00	
	"	Cash " Taylor, Joy & Co. " "	26 86	
		Cash " Menken Bros	50 00	
	8.	Cash " order Mrs. Davis	74 00	
	9.	Cash " house rent	100 00	
	22.	Cash " his order to Mr. Woods (Bible	16 00	
	27.	Cash " order Mrs. Davis	15 00	
				1,439 07
		Boyle and Chapman, blank-book manufacturers, booksellers, stationers & steam printers, 279 Main street, Memphis, Tenn., Dec. 17, '73.		
		Balance last statement		4,617 36
		Paid.		
Sept.	8.	Telegram to wife	1 40	
	9.	" " Louisville	1 15	
254	Sept. 11.	Ice bill	33 75	
	12.	Elliott and Ridgeley	3 00	
Oct.	18.	Paid on joint note	1,404 00	
	29.	Telegram	40	
Nov.	2.	Forw'd Mrs. Davis	200 00	
	19.	D'ft Mrs. Davis	181 75	
Dec.	4.	" to Mumford, sec'y	50 00	
	5.	Dep'd in N. & P. B'k	200 00	
	6.	D'ft in favor Mrs. Davis	85 00	
	15.	Acceptance for coll	205 04	
	"	" " Lowenstein	379 00	
	15.	Check Mrs. Davis	100 00	2,844 49
				$1,772 87

MEMPHIS, TENN., *Dec.* 13, 1875.

Hon. Jefferson Davis bought of Boyle and Chapman, steam-printers, blank-book manufacturers and stationers, No. 279 Main street.

[All bills payable on the 1st of each month.]

'74.				
March	23.	1 Hay Fever, 2.00, 1 Dict. Classical Quot., 7		2 75
		1 Edgeworth, 87; 1 Fleur. Ded., 1.00		1 87
		1 Matthew Arnold, 1.43; 1 Treas. Thought, 3.67		5 10
		1 Suislett, 1.32; 1 Fielding, 1.32		2 64
		1 Port. Breakfast Table		1 46
		1 Crabbe		92
		1 Gibbon's Decline and Fall		3 50
	31.	Books per Mrs. Davis		3 00
	April	6. 1 bot. violet ink		25
255	April	17. 1 3 centuries		1 50
		Paper and envelopes		75
May	7.	1 May Queen		2 50
June	12.	Note-paper & envelopes, "Miss Maggie"		1 75
	17.	1 bot. violet ink		15
	20.	1 Davis a Traitor		1 50
July	11.	Paper & envelopes		3 00
	30.	1 p'k envelopes, 25; 1 "Children of the Abbey," 1.40		1 65
		1 True Politeness		30
	31.	Postage stamps		1 00
Aug.	4.	Lead pencils and sharpener		25
	29.	1 ball twine		40
		1 Adam and Adamites		2 40
Sep.	7.	2 Bric-Brac Series		3 00
	23.	1 Mitchell's International Geo'y		1 80
		1 White's Comp. Arith		1 00
		1 Holmes' 5th Reader		1 25
		1 " Speller		20
	24.	1 comp. book		40
	29.	Binding Statistics at Large		2 00
Nov.	11.	Printing circulars		7 50
Dec.	5.	Paper & envelopes		1 40
	9.	1 q'r foolscap		50
		1 bot. carmine		25
		Am't forward		5,794
		a/c continued:		
Dec.	10.	Am't bro't forward		57 94
	"	5 q'rs paper		1 75
		5 p'ks envelopes		1 75
256	Dec.	10. 1 set Meredith		5 50
	22.	1 book & postage		1 76
		1 Gray's Elegy		3 75
	23.	1 pencil, 1.25; 5 qr's paper, .75		2 00
		4 p'k's envelopes, 60 c.; 1 Scott, 1.75		2 35
	24.	1 picture-book		1 40
'75.				
Feb'y	15.	1 Middle March		1 50
		1 novel		1 00
	17.	1 gold pen & holder		1 75
	18.	1 Church Almanac		25
		½ re'm note		1 75
		1 bot. ink		20
		1 p'k envelopes		15
	25.	1 pocket pencil		1 00
M'ch	16.	1 Gems of Scottish Song		2 00
April	13.	Blank-books, &c., "per Jeff"		6 35
		1 bot. ink & 2 pencils "Jeff		45
	26.	½ q'r ledger & box pens" "		1 00
May	1.	½ " journal "		50
	4.	Stamps		1 00
	10.	"		12
	15.	1 Steps in the Dark		75
	15.	1 slate and 1 q't ink		1 40

	19.	Q'r foolscap	50
	21.	½ q'r journal paper	75
	31.	1 box initial "	25
June	2.	Stamps	12
	4.	1 q'r ledger	50
	14.	1 bot. carmine	50
	18.	½ q'r ledger	65
		Am't forward	102 64

257 3d c. continued:

June	18.	Am't bro't forward	102 64
		1 Twenty Thousand Leagues	2 60
		1 Mysterious Island	1 15
		1 box note-paper & envelopes	1 50
July	1.	1 bill-book	75
		1 p'k visiting cards	1 50
	3.	Paper & envelopes	1 75
		1 ball twine	40
	5.	1 wash lists	50
	14.	1 quire letter	50
	16.	2 copying pencils	30
	26.	2 magazines	1 50
Aug.	13.	1 q'r legal cap	40
	17.	1 " ledger paper	1 00
	19.	Postage-stamps	72
	31.	p'k's envelopes	50
Sept.	6.	2 Bric-a-Brac Series	2 40
	17.	Stamps	39
	20.	School-books, &c., "for poor child"	1 75
	21.	5 p'k's envelopes	1 00
		1 Dickens' Hist. of England	1 15
	23.	1 Goodrich's U. S. Hist	1 75
		1 copy-book	25
		1 pencil & rubber	25
	23.	1 bot. ink	10
	24.	1 Bullion's Eng. Grammar	72
	29.	2 novels	90
Oct.	2.	Toy-books	2 75
	4.	6 picture toys, Miss Maggie	1 50

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Oct.	4.	1 Queen Mary	1 00
	5.	1 slate, 25; Primary Dict. 65	90
		Pictures	7 20
		1 drawing-book, 40; rubber & pencil, 25	65
		Am't forward	142 37

3d c. continued:

Oct.	12.	Am't bro't forward	142 37
		1 draft-book	1 00
	21.	1 pen-holder & pencil	25
Nov.	1.	Sheets of roses, &c	2 08
		1 toy-book	25
		1 bot. ink	25
	8.	1 box note paper	50
	16.	Note paper & envelopes, daughter	1 00
		1 novel "	75
	24.	1 box mourning-paper	1 50
			149 95

Paid:

BOYLE & COMPANY,
TITUS.

MEMPHIS, TENN., *July* 10, 1876.

Hon. Jefferson Davis, bought of Boyle & Company, successors to Boyle and Company, steam printers, blank-book manufacturers & stationers, No. 279 Main street.

'75.

Dec.	7.	1 Seven Oaks	1 75
	14.	2 pencils & 1 ruler, (Winnie)	30
	16.	1 juvenile book	2 00

259	Dec.	17. Binding 3 vols. music	8 25	
		18. 2 books	3 00	
		23. Lettering p'k't book	25	
		24. 1 Shepherd Lady	4 50	
		29. 1 q'r news	40	
		½ q'r wrapping, 1 p'k visiting cards	75	
		20. 800 invitations, &c	49 00	
		31. 1 p'k visiting cards	40	
	Jan'y	10. 2 toy books	50	
	Feb'y	12. 1 bot. mucilage	40	
		15. Note-paper & envelopes	1 25	
	M'ch	14. Mourning paper & envelopes	1 50	
	April	26. 4 packing-boxes	2 00	
		27. " " " & c't'ge	2 50	
	May	1. 1 blank book	1 50	
		1 draft "	1 00	
	June	30. Binding various books	10 00	
				91 25

Paid.

BOYLE & COMPANY,
TITUS.

(Across the face:) Ch'g' Hon. Jefferson Davis' a/c.

260 And by consent said Hays was examined in open court and testified that during the years 1874, 1875, and 1876, he was the agent at Memphis of defendant Davis; that as such he called on Boyle and Co. for statements of Mr. Davis' accounts, and these were rendered him and no others were; that at the time these were rendered Mr. Davis was absent in Europe and never saw these statements until after this suit was brought; that at the time they were rendered he wrote Mr. Davis, merely informing him of the amount to his credit, but no further giving the contents of these statements.

Complainants offer this statement of facts, and the same not otherwise appearing of record, it is ordered that this statement be filed and made a part of the record in this cause.

[SEAL.] CONNALLY F. TRIGG,
Judge Presiding.

MARCH 2, 1878.

261 (Endorsed:) U. S. circ. court. 284 equity. W. H. Chatfield et al. vs. W. F. Boyle et al. Statement of evidence by leave of court. Filed Mar. 2, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

262 UNITED STATES OF AMERICA,
Western District of Tennessee:

In the circuit court of the United States, within and for the western district of Tennessee, in the sixth judicial circuit thereof.

Proceedings had in said court, at a regular term thereof, begun and held for its Nov. term, A. D. 1877, at the United States court-house in the city of Memphis, in said district, on, to wit, the 4th day of March, A. D. 1878, in the following cause, to wit:

W. H. CHATFIELD AND WM. WOODS ET AL., plaintiff, *vs.* W. F. BOYLE, JEFFERSON DAVIS ET AL., defendant. } No 284. Equity.

Came the complainants Chatfield and Woods, The Powers Paper

Company, Edwin Hoole, surviving partner of Snider and Hoole; Louis Snider's Sons, H. B. Graham and Bro., and S. A. Tower and Co., and presented their appeal bond in accordance with the order of the court heretofore made for the appeal in this cause to the Supreme Court at Washington, in the sum of five hundred dollars, with R. G.
263 Craig as surety thereon, which bond is approved and accepted by the court, and thereupon the said complainants give notice in open court to the defendants who are present in court by their counsel of the taking and perfecting of the said appeal to the Supreme Court.

264 UNITED STATES OF AMERICA,
Western District of Tennessee:

Personally appeared before me, L. H. Pillsbury, one of the commissioners of the circuit and district courts of the United States for said western district of Tennessee, R. G. Craig, one of the sureties on the within bond, who, being by me first duly sworn, makes oath and says that he is a resident of the district of West Tennessee, and is worth the sum of one thousand dollars, in unencumbered real estate in his own name and right, over and above his legal debts and liabilities, and subject to execution under the laws of the State of Tennessee; that said property is situate in the county of Shelby and State of Tennessee, and described as follows.

R. G. CRAIG.

Subscribed and sworn to before me this 4th day of March, A. D. 1878.

L. H. PILLSBURY,
United States Commissioner for said Western District of Tennessee.

UNITED STATES OF AMERICA,
Western District of Tennessee:

Personally appeared before me , one of the commissioners of the circuit and district courts of the United States for said western district of Tennessee, one of the sureties on the within bond, who, being by me first duly sworn, makes oath and says that he is a resident of the district of West Tennessee, and is worth the sum of dollars, in unencumbered in his own name and right, over and above his legal debts and liabilities, and subject to execution under the laws of the State of Tennessee; that said property is situate in the county of and State of Tennessee, and described as follows.

Subscribed and sworn to before me this day of A. D. 187 .

United States Commissioner for said Western District of Tennessee.

(Indorsed:) No. 284. Circuit court of the United States, western district of Tennessee. Chatfield & Woods vs. W. F. Boyle, Jeff. Davis, et als. Qualification of surety. Filed Mar. 4, 1878. H. E. Andrews, clerk. L. H. Pillsbury, D. C.

Supreme Court of the United States.

CHATFIELD AND WOODS ET AL.
vs.
W. F. BOYLE ET ALS.

Know all men by these presents that we, Chatfield & Woods, The

Powers Paper Co., Edwin Hoole, surviving partner of Snider & Hoole; Louis Snider's Sons, H. B. Graham & Bro., and S. A. Tower & Co., as principals, and R. G. Craig, surety, are held and firmly bound unto W. F. Boyle and Jefferson Davis et als., in the sum of five hundred dollars, to be paid to the said W. F. Boyle, Jefferson Davis, et als., executors or administrators, to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals, dated this 2d day of March, 1878.

Whereas the above-named Chatfield & Woods, The Powers Paper Co., Edwin Hoole, surviving partner of Snider & Hoole, Louis Snider's Sons, H. B. Graham & Bro., and S. A. Tower & Co., hath prosecuted an appeal to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the circuit court of the United States for the western district of Tennessee:

Now, therefore, the consideration of this obligation is such, that if the above-named Chatfield & Woods, The Powers Paper Co., Edwin Hoole, surviving partner of Snider & Hoole, Louis Snider's Sons, H. B. Graham & Bro., and S. A. Tower & Co., shall prosecute their said appeal to effect, and answer all costs, or if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

CHATFIELD & WOODS,
By PIERCE AND DIX, *Att'ys.*
THE POWERS PAPER CO.,
By PIERCE AND DIX, *Att'ys.*
EDWIN HOOLE, [SEAL.]
Surviving partner of Snider & Hoole,
By T. B. EDGINGTON, *Att'y.*
LOUIS SNIDER'S SONS,
By J. A. TAYLOR, *Att'y.* [SEAL.]
H. B. GRAHAM & BRO.,
By GEO. GILLHAM, *Att'y.*
S. A. TOWER AND CO.,
" GEO. GILLHAM, *Att'y.* [SEAL.]
R. G. CRAIG.

Acknowledged before me this 4 day of March, 1878.
H. E. ANDREWS, *Clerk,*
By L. H. PILLSBURY, *D. C.*

(Indorsed:) No. 284. Circuit court of the United Rtates, western district of Tennessee. Chatfield & Woods et al. vs. W. F. Boyle and Jeff. Davis et al. Appeal bond. Writ of error bond. To United States Supreme Court. Filed the 4 day of March, A. D. 1878. H. E. Andrews, clerk, L. H. Pillsbury, D. C.

265 UNITED STATES OF AMERICA,
Sixth Circuit and District of West Tennessee:

I, Horace E. Andrews, clerk of the circuit court of the United States for said district of West Tennessee, do hereby certify that the paper hereto attached is a full, true, perfect, and correct copy of the original record and proceedings in said court as the same now appear of record, and upon the files in my office, in the following cause, to wit: W. H. Chatfield et al. vs. W. F. Boyle et al.

In testimony whereof, I have hereunto set my name and affixed the seal of said court, at office in the city of Memphis, this 30th day of

March, A. D. 1878, and of the Independence of the United States the 102 year.

[SEAL.]

H. E. ANDREWS, *Clerk*,
L. H. PILLSBURY, *D. C.*

(Indorsed:) No. 284, eq. Cir. court of the United States, district of West Tennessee. W. H. Chatfield et al. vs. W. F. Boyle et als.

(Indorsement on cover:) No. 1055. W. H. Chatfield, Wm. Woods, The Powers Paper Company, et al., appellants, vs. W. F. Boyle, Jefferson Davis, et al. W. Tennessee C. C. U. S. Filed 2nd January, 1879.

In the Supreme Court of the United States.

OCTOBER TERM, 1878.

CHATFIELD & WOODS, THE POWER PAPER COMPANY, EDWIN HOOLE, Surviver, &c., LEWIS SNIDER'S SONS, H. B. GRAHAM & BRO., and S. A. TOWER & Co., Appellants,
vs.
WM. T. BOYLE, JEFFERSON DAVIS ET AL. } No. 1,015.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE.

And now come the appellees and move the court to dismiss this cause, because they say the amount in controversy is less than five thousand dollars, and this court has not jurisdiction to hear and determine the same.

JNO. D. McPHERSON.
Attorney for Appellees.

Statement.

The defendant, Boyle, a book publisher and stationer, had by three successive deeds conveyed personal estate to trustees to secure certain creditors, viz.; (1) By deed of June 30, 1873, certain chattels to J. C. Cooper to secure to J. T. Pettit, $2,000; (2) By deed of March 8, 1876, the same chattels to J. A. Hays to secure to Jefferson Davis $25,000; (3) By deed of November 14, 1876, all his personal estate, rights and credits to J. A. Omberg for the benefit of all his creditors. See Bill, Record, p. 5, fol. 16, p. 4, fol. 13, and p. 6, fol. 23.

Chatfield & Woods filed their bill in the Chancery Court of Shelby county, Tennessee, January 13, 1876, against

the trustees and beneficiaries of the first two deeds, to have the deeds set aside and declared void as to them, averring that they were creditors of Boyle to the amount of $3,440.37. The second deed was assailed on the ground that Davis was in fact a copartner of Boyle, and as such had put into the firm the sum of $25,000, secured by the deed; and, therefore, was not a creditor. In this bill Omberg joined as representing the general creditors.

Before answer, and by consent of all parties, it was ordered that the property secured by the first two deeds be sold by Cooper, that the demand of Pettit, secured by the first deed be paid, and the residue be brought into court. Record, p. 13.

Cooper's sales amounted to $5,731.50, out of which he paid for expenses and to Pettit $2,780.50, and brought into court $2,951. Record, p. 30.

On the 16th of March, 1877, the Power Paper Company, Edwin Hoole and L. Snider's Sons came in by petition and were made parties complainant, and stated their demands. Record, p. 32.

They stated their demands to be as follows:

The Power Paper Company, $2,300 80.

E. Hoole, $1,047.79.

L. Snider's Sons, $1,103.36.

On the 23d of March, Omberg, by leave of court, dismissed his bill. Record, p. 35.

On the 20th of April, 1877, the cause on the petition of complainants was removed into the United States Circuit Court for the Western District of Tennessee. Rec., p. 39.

On the 16th of February, 1878, H. B. Graham & Bros. and S. A. Tower & Co. filed their claims, but did not pray to be made parties nor was any order to that effect made. Rec, pp. 43–4.

They stated their demand to be as follows:

H. B. Graham & Bro., $256.58,

S. A. Tower & Co., $713.25.

Answers were put in and testimony taken. The cause

came on to be heard, and on the 7th of March, 1878, the court decreed that the bill be dismissed, and the moneys in court be paid over to Davis. Rec., p. 59.

From the decree (1) Chatfield & Woods, (2) The Power Paper Co., (3) Edwin Hoole, (4) L. Snider's Sons, (5) H. B. Graham & Bros., (6) S. A. Tower & Co. appealed. Rec., p. 60.

The aggregate of all the claims at the date of filing of the bill was about $8,862.15, and the fund which they sought to reach was $2,951.10. Omberg seems to have volunteered to obtain the direction of the court in discharging his trust, (Rec., p. 14,) and on the 5th of February, 1877, reported sales to the nett amount of $6,319 20, sufficient to pay all the creditors 15 per cent. He paid the dividend to all the creditors except Davis, and his share, $3,750, he brought into court. (Rec., p. 18.) $346.19 were returned to him, leaving in court for Mr. Davis $3,403.81. Rec. p. 31.

POINTS.

1. It is the separate demand of each appellant, and not the aggregate, that is the test of jurisdiction.

Oliver *v.* Alexander, 6 Peters, pp. 143, 149.
Stratton *v.* Jarvis et al., 8 Peters, 4, 11.
Rich et al. *v.* Lambert, 12 How., 347, 352.
Seaver *v.* Bigelow, 5 Wall., 208, 210.

The separate demand of each being less than $5,000 the court has not jurisdiction.

Oliver et al. *vs.* Alexander et al., 6 Peters, 143:

Libel for seamen's wages; decree awarding to seventy-eight libellants, $32,872.30, to be paid them *pro rata*, but to no one so much as $1,000. Respondents appealed; appeal dismissed "upon the ground that the sum in controversy in each case was less than $2,000."

By the court: "It is very clear, therefore, that no seaman can appeal from the district to the circuit court unless his own claim exceeds $50; nor from the circuit court

to the supreme court, unless his own claim exceeds $2,000."

Stratton *vs.* Jarvis, 8 Pet., 4:

A salvage case. The aggregate salvage awarded exceeded $2,000. Appeal by respondents. It did not appear that any respondent was to pay $2,000, and appeal dismissed.

Rich *vs.* Lambert, 12 How., 347, 353.

Libel by owner of goods damaged. Decree in favor of some for more than $2,000, and of others for less than $2,000. Respondents appealed. Appeal dismissed as "to all the cases except the two in each of which the amount in the decree exceeds the $2,000." By the court: "*Clearly a libellant could not have appealed unless his claim exceeds* $2,000. Nor can the respondents, upon the same principle, unless the amount decreed against him in the particular case exceeds that amount."

Seaver *vs.* Bigelow, 5 Wallace, 208:

Creditor's bill. Complainant's claims were each *less* than $1,000, the fund *more* than $2,000.

By the court: "The creditors who have joined in this bill have separate and distinct interests, depending upon separate and distinct judgments. In no event could the sum in dispute, of either party, exceed their judgment, which is less than $2,000. The bill being dismissed, each fails in obtaining payment of his demands. If it had been sustained, and a decree rendered in their favor, it would only have been for the amount of the judgment of each.

* * * * * * * * *

"It is true the litigation involves a common fund which exceeds the sum of $2,000, but neither of the judgment creditors has any interest in it exceeding the amount of his judgment. * * * * The case is analogous to proceedings in admiralty in behalf of seamen's wages, and salvors for damages, where the practice of the court is well settled."

JOHN D. McPHERSON,
Attorney for Appellant.

Robert Clarke & Co., Printers, Cincinnati, O. [*April*, 1879.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1878.

Chatfield & Woods and others,
Appellants.

No. 1015.] *vs.*

Boyle & Co., Jefferson Davis and others,
Appellees.

Motion by Appellees to dismiss appeal for want of jurisdiction, on the ground that the amount in controversy does not exceed five thousand dollars.

STANLEY MATTHEWS,
Counsel for Appellants.

Robert Clarke & Co., Printers, Cincinnati, O. [*April*, 1879.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1878.

Chatfield & Woods and others,
Appellants.

No. 1015.] *vs.*

Boyle & Co., Jefferson Davis and others,
Appellees.

Motion by Appellees to dismiss appeal for want of jurisdiction, on the ground that the amount in controversy does not exceed five thousand dollars.

STATEMENT.

Chatfield & Woods, being creditors of Boyle & Co., who were insolvent, filed their bill in equity against them, and others, in the Chancery Court of Shelby county, Tennessee.

1. Mainly, to enforce the execution of the trusts of a general assignment of their personal property for the equal benefit of all creditors, made by Boyle & Co. to Omberg.

2. And, secondly, to obtain, in aid thereof, the benefit of any surplus, to arise from the proceeds of sale of part of the assigned property previously conveyed

by Boyle & Co. to Cooper, to secure Pettit, a creditor.

3. And, thirdly, also to have another conveyance of part of the same property, previously made by Boyle & Co. to Hays, to secure Jefferson Davis, in the sum of $25,000, set aside as void, on the ground that Davis was not a creditor of, but a partner in, the firm of Boyle & Co.

The bill alleges as follows (*Record, p.* 7, *folio* 25): "Complainants, Chatfield & Woods, as creditors, therefore bring this bill in aid of the said assignment, and in behalf of all the creditors of said firm who may be entitled to come in and join herein, and they have applied to complainant, Omberg, as the representative of all the creditors and the person vested with title to the property under the assignment, to join them as a complainant herein.

"Complainant, Omberg, as the assignee in said deed of assignment, comes, at the request of creditors as aforesaid, and claims the benefit of all the matters and circumstances in this bill set up in behalf of all the creditors of Boyle & Co., and especially in behalf of all those creditors who may hereafter be made parties hereto, and may by proper averments and proof make good their claim to be paid out of the proceeds of the property hereby proceeded against, and asks for them and each of them all the relief under and by virtue and in aid of said assignment, to which they or either or each of them may as creditors be entitled as against the defendant, Davis, or other defendants."

Complainant, Omberg, "further shows to the Court, that he has no interest in this matter, except to discharge his duty as assignee under said assignment, and which he is ready, as heretofore, to proceed in the the execution thereof as to all property not in dispute, and to await the orders of this Court as to the property, assets, and claims in the bill, specially referred to; he is also ready, if to the Court it seems best, on the application of creditors, or otherwise, to surrender all his trust into the charge and control of the Court, and let all the property of Boyle & Co., whether disputed or not, as between their creditors, be administered by the Court, by the hand of complainant, or any other such agency as it may determine and appoint."

The bill was filed January 13, 1877, and an injunction allowed, restraining the defendants from proceeding with an intended sale, when, on January 19, 1877, an order by consent was entered (*Record, p.* 13, *folio* 45), whereby it was ordered that the injunction be modified; *that all the right, title and interest of complainant, J. A. Omberg, assignee, etc., and defendants, Boyle, Jefferson Davis, and J. A. Hays, trustee, in and to the property described in the two deeds, to Cooper and to Hays,* be, in order that a sale thereof may be made by order of this Court, *divested out of them* and *vested in the defendant, Cooper, as trustee,* under said trust deed to him and *as special commissioner* of this Court, he being thereby appointed such, who was also thereby ordered to sell the same, on terms therein prescribed, pay costs and expenses out of the proceeds first, and then the

claim of Pettit, and the remainder, both of cash and notes, deposit specially in bank, subject to the order of the Court, which order was expressly made without prejudice to the rights of all parties other than Pettit and Cooper.

On the same day, January 19, 1877, Omberg, as assignee, reported (*Record, p.* 14, *folio* 49) an offer to purchase the remaining personal property, covered by the assignment to him, recommended its acceptance, and he was ordered to make the sale.

Cooper, as special commissioner and trustee (*Record, p.* 16, *folio* 52), reported a net balance of $2,978.50, resulting from the execution of the orders of the Court to him; and Omberg (*Record, pp.* 16, 17, 18) reported $6,319.20 as the net balance in his hands, of which he had disbursed among creditors all but $3,750, the amount due on the claim of Davis, if it should be sustained, which was ordered to be paid into Court.

Cooper having reported a sale of a portion of the property held by him to Mr. Davis at $2,850, Chatfield & Woods offered to advance upon that bid $5,000, and the biddings were opened, when Mr. Davis advanced upon their offer $500, and the property was again struck off to him, which, after paying Pettit's claim and expenses, left in his hands, subject to the order of the Court, $2,951.10.

In consequence of this advance by Mr. Davis, the amount of his claim, if sustained, would be reduced by the amount of $2,307.95, and, accordingly, $346.19 was refunded to Omberg, out of what he had paid into Court

in excess of any claim that could be allowed on the Davis claim. (*Record, p.* 31).

On March 16, 1877 (*Record, p.* 32), Powers Paper Company, Snider & Hoole, and Louis Snider's Sons filed their petition, alleging themselves respectively to be creditors of Boyle & Co., praying to be admitted as parties complainant—

Powers Paper Company's claim is alleged to be	$2,689 60
Snider & Hoole's	1,232 61
Louis Snider's Sons	1,103 76
	$5,025 97

And, on same day (*Record, p.* 35), they were so admitted as parties.

On March 23, 1877 (*Record, p.* 35), the following entry was made :

"In this cause, it appearing to the Court, by a statement of J. A. Omberg, that all the creditors who have demanded of James A. Omberg, the assignee, to join in this litigation have come in and had themselves made parties therein, it is, therefore, on motion, *ordered* that this bill be dismissed so far as said Omberg is concerned, and he go hence without day."

In that condition of the cause, it was removed, on petition of the complainants, to the Circuit Court of the United States, April 20, 1877 (*Record, pp.* 36–39).

On February 28, 1878, Chatfield & Woods, on their own behalf and that of the other creditors who had come in and been made parties complainant, includ-

ing, in addition to those heretofore named, H. B. Graham & Bro. and S. A. Tower & Co., who had also been allowed to become parties, filed an amended bill, to which the answers theretofore filed to the original bill were refiled.

On March 1, 1878, final decree was made dismissing the bill for want of equity, with costs, from which all the complainants prayed an appeal, which was allowed.

From this statement, it appears that the amount of the fund, in Court, which was the subject of the controvery, was as follows:

Net proceeds of sale by Cooper, after deducting all admitted claims, . . .	$2,951 10
Balance paid in by Omberg, to represent proportion due on Davis claim, if allowed, ...	3,403 81
Aggregate, ...	$6,354 91

The claims of the complainants, it is admitted, aggregated $8,862.15.

POINTS FOR APPELLANTS.

I.

If the bill had been originally filed by Omberg, as trustee under the conveyance to him, for the benefit of creditors, and prosecuted to the same final decree, there could be no doubt that his appeal would have brought the case within the jurisdiction of this Court.

On that supposition, the amount or value in controversy would have exceeded five thousand dollars.

Omberg was in fact one of the original complainants, and did prosecute the bill to a certain point in the history of the case. But how can the circumstance that others prosecute it, instead of him, if they prosecute, as they do, *in the same right and upon the same title*, make any difference as to the amount and value in controversy? Certainly that question does not vary with the parties.

II.

The appellants were, by order of the Court, and without objection on the part of the defendants, the appellees, substituted as sole parties complainant, dispensing with Omberg. Such we claim to be the effect of the order dismissing the bill, so far as he was concerned. He had fully executed his trust, in the presence and under the directions of the Court, as to all

matters, except those in controversy between the remaining parties; and as all the creditors, who were the *cestuis que trustent* under the assignment, were already made parties to the suit, and were able and willing to take upon themselves the burden of prosecuting their rights under the trust, his presence was no longer necessary, and he was discharged from his trust and the case at the same time. The fund was in Court, the legal title to the property sold had passed by the sale, and nothing remained but to settle the equities of the real litigants. Omberg's title to the substituted fund, the proceeds of the sale, was virtually, by the order of the Court, vested in the appellants, and their further prosecution of the suit was upon the same title and in the same right as that which had been brought before the Court by Omberg as assignee. So that the appellants thereafter prosecuted the bill, not as creditors of Boyle & Co., interested in a common fund, but having independent rights, but as assignees under the conveyance to Omberg, seeking to enforce that trust in their own behalf. In this their *interest* was not merely *common*, but was *joint*, as was also their *title*. If the assignment had been to them directly, instead of to Omberg, for their benefit, there would be no doubt of their right to prosecute a joint suit and to appeal jointly from an adverse decree. In the case, as it became after Omberg was dismissed, this was their identical situation.

By the terms of the order of January 19th (*Record, p.* 13), the title to the property, described in the

conveyances to Cooper and to Hayes, and also covered by the assignment to Omberg, was expressly divested from the adversary claimants and their representatives, Hayes and Omberg, and transferred to Cooper, as special commissioner. Omberg reduced the remaining assets in his hands to cash, under the instructions of the Court, and paid it in to its order; so that as to all else he had no interest and no duty to perform, except to prosecute the suit. The beneficiaries of his trust offered to relieve him of this. No one objected, and the Court so ordered. How could this work any change in the nature of the right which constituted the subject-matter of the controversy?

III.

The case of *Seaver* v. *Bigelows*, 5 Wall. 208, and the analogous cases on which it rests, of libels in admiralty for seamen's wages, for salvage in behalf of several claimants, and for damage to cargo by several owners, do not apply. The *ratio decidendi* of that case is contained in this sentence, from the opinion of the Court:

"Hence, to sustain an appeal in this class of cases, where *separate and distinct interests* are in dispute, of an amount less than the statute requires, and where *the joinder of parties is permitted by the mere indulgence of the Court, for its convenience and to save expense*, would be giving a privilege to the parties not common to other litigants, and which is forbidden by law."

In that case, Mr. Justice Nelson said: "The judgment creditors who have joined in this bill have separate and distinct interests, depending upon separate and distinct judgments."

Here the appellants have not separate and distinct interests, depending upon separate and distinct titles. Their title is joint, based upon the assignment in trust, for their equal benefit. Their interests, distinguishing their legal and equitable interests from mere pecuniary interests, were joint, being bound together by their joint title under the conveyance they were seeking to enforce. It is not the case of a technical creditor's bill, for here there was no judgment and no separate lien, and no special equity for marshaling assets. It was the distinct case of the specific execution and enforcement of a trust, created for the benefit of a class, where the right to sue belongs to the whole number, and not to one or a part.

If it be objected that this is not one of the cases where the *cestui que trust* has the right to sue in his own name, the trustee alone having the title and right to maintain it, the answer is double:

1. The objection goes to the merits, and not to the jurisdiction. The bill may have been wrongly conceived, and the complainants, it may be, have no title to sue, but that is ground for demurrer, or for a dismissal of the bill upon final hearing. It can not be made the ground to dismiss an appeal for want of jurisdiction, on the ground here alleged, if the right to sue is claimed, no matter how unfounded that claim may

ultimately prove to be, provided they claim jointly, and the subject of their joint claim exceeds the statutory minimum.

2. The objection is too late. It should have been made when Omberg asked to be dismissed, in order that the controversy might proceed between the remaining complainants and the appellees. As the complainants confessedly were the only parties on that side of the controversy beneficially interested, it was competent for the real contestants to waive the presence of one, who was at best but a stakeholder, and who had deposited the subject of the suit to abide its result, according to the orders of the Court and by consent of parties.

The only doubt that can be raised arises from a possible confusion between two essentially distinct ideas. One is, that the appellants, being several and distinct creditors of Boyle & Co., if they should succeed in their contention, would be entitled by decree to separate sums out of the common fund, on distribution, in payment of their individual claims. The other is, that the appellants are in equity joint owners of the fund, as they were of the chattels which produced it, by virtue of the assignment to Omberg, having one indivisible title to the entire subject, as a trust to be declared, established, and enforced, and that their joint right to assert that single title, denied by the appellees, constitutes the issue which forms the subject-matter of this controversy and litigation. Its value confessedly brings it within the appellate jurisdiction of this Court. Supposing the suit maintainable at all in the name of the *cestuis*

que trustent, then the joinder o fthem all was as necessary and essential to its maintenance as in every other case of a suit brought to enforce a joint right. If so, the cause of action is one, although the fruits of judgment may have to be divided among many.

STANLEY MATTHEWS,

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